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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The International Problem of Law and Order.

WE REPORT on another page the very interesting address given by Sir HENRY DUKE at the annual meeting of the Grotius Society last week, and we may refer to the article by Lord PHILLIMORE on the Permanent Court for International Justice, which appeared in *The Times* of the 18th inst. The penalty for civilization, says Sir HENRY DUKE, if it cannot solve the enigma of international peace, is death. Already civilization has allowed chances for checking the savagery of warfare to go by. "If," says Sir HENRY, "international authority could have functioned to prevent the use of the air as a field for hostile operations": but under pressure of war the nations slipped into the barbarity of air warfare, and even our own nation seems to find it impossible to dispense with it, though the immediate occasion has passed. But it is not too much to say that the vast majority of civilised mankind have firmly decided that there shall be no recurrence of the disaster of the late war. The sanctions which the Covenant provides are, as Sir HENRY DUKE points out, of tremendous force, and no nation will be able to resist the peaceful pursuasion which these are capable of exerting.

The Third Session of the World Court.

Lord PHILLIMORE, in his article in *The Times*, gives the "cause list" which awaits the third session of the Permanent Court. In one case, which relates to keeping open the Kiel Canal, four Great Powers are plaintiffs, and Germany is defendant, and since Germany is neither a party to the League nor a party to the International Court, she has the right, under the special provisions made for ensuring fairness and equality of treatment, to nominate a judge to sit upon the Court for the purpose of the suit. "It is understood," says Lord PHILLIMORE, "that she is going to appear to the summons, and has already chosen an eminent German jurist to be nominated as her judge. This will be the first case of a real law-suit between nations." In

another case, Germany is the complainant, taking up the cause of German minorities in Poland, and Poland is the Defendant. The temporary appointment of a German judge will no doubt soon be permanent. The World Court cannot afford to neglect the country of SAVIGNY and IHERING. And though it would seem that the United States will not yet take full part in the work of the Court, yet this too can hardly be much longer delayed.

The Publications of Opinions of Law Officers.

THERE IS NO doubt that, according to our constitutional practice, the Attorney-General is right in refusing to disclose the opinion which he and, it is to be presumed, the Solicitor-General gave to the Home Secretary in favour of the legality of the Irish deportations. We have already pointed out that the opinion must have been of a qualified nature, for it is quite inconceivable that any counsel of standing would advise that the law in favour of the Home Secretary's action was clear. But the exact extent of the qualification must remain unknown to the present generation. For though the opinions of English law officers may get published ultimately, this is only when they have ceased to be of current interest. A collection of opinions on matters concerning the Colonies, Fisheries and Commerce, including opinions of law officers, was compiled by GEORGE CHALMERS and published in 1814. These were largely obtained from the books of the Board of Trade, and the preface gives a list of seventy-three lawyers, whose opinions are given. In the list are Lord SOMERS, Lord HARDWICKE and Lord MANSFIELD. The work was continued in the better-known compilation by WILLIAM FORSYTH, Q.C., "Cases and Opinions on Constitutional Law," published in 1869. This also was largely taken from official sources and was intended to fill the sixty or seventy years which had elapsed since CHALMERS' work. The Colonial Office and the Treasury appear to have been quite ready to assist, and they placed their records at Mr. FORSYTH'S disposal, but the Foreign Office ignored his request, not to examine their archives, but "to be supplied with a few legal opinions of old date, which could have no bearing upon any question in controversy at the present day." The collection includes the opinions of ex-law officers, then living, given with their consent, and amongst the names in the volume are CAMPBELL, COCKBURN, BETHELL and CAIRNS. In the United States the practice as to publication of the opinions of the law officers is different—*i.e.*, of the Attorney-General, for the Solicitor-General is only an assistant to the Attorney-General, and not a colleague (Bryce, "American Commonwealth," 89)—and his opinions are frequently published officially, "as a justification of the President's conduct, and an indication of the view which the Executive takes of its legal position and duties in a pending matter": *ibid.*

The Indemnity Bill.

IN REFERRING last week to the result of the *O'Brien Case* and to the probability of a Bill of Indemnity being introduced to protect the Home Secretary against the tremendous penalties which he has undoubtedly incurred, we disclaimed any intention of discussing the desirability of this course. That Mr. BRIDGEMAN should be relieved from the worst of the penalties is, of course, generally agreed. The extent of the relief is for Parliament to decide. The Bill of Indemnity, which has now been published, consists of only two clauses, the second giving the short title—Restoration of Order in Ireland (Indemnity) Act 1914. The first is as follows:—

> "1. *Indemnity for action taken under Restoration of Order in Ireland regulations.*—No action or other legal proceeding whatsoever, whether civil or criminal, shall be instituted in any court of law against any person for, or on account of, or in respect of the issue before the passing of this Act, of any order purporting to have been made in pursuance of any regulations made under the Restoration of Order in Ireland Act, 1920, or for, on account of, or in respect of any act done for the purpose of carrying any such order into effect or done in purported exercise of any powers under the said regulations; and if any such proceeding has been instituted, whether before or after the passing of this Act, it shall be discharged and made void."

Students of Constitutional Law will remember that the theory and practice of Acts of Indemnity are discussed in the late Professor DICEY'S "Law of the Constitution." "Acts of Indemnity," says Professor DICEY, "being as it were the legalisation of illegality, are the highest exertion and crowning proof of sovereign power." They are usually employed in order to protect officials who may have exceeded their powers in times of disorder or rebellion: *e.g.*, when the Habeas Corpus Act has been suspended or when martial law has been proclaimed. The suspension of the Habeas Corpus Act, Professor DICEY points out, only suspends the remedy and does not condone illegal acts, and hence it is usually followed by an Act of Indemnity, and the terms of this may be narrow or wide. The Indemnity Act of 1801, he states, gave a very limited amount of protection to official wrongdoers. On the present occasion there has been no suspension of the Habeas Corpus Act, and the Bill is drawn in as wide terms as possible. But it may be questioned whether it can pass in its present form without seriously impairing the right to personal liberty which is now axiomatic in the Constitution.

The Constitution and the Premiership.

WALTER BAGEHOT is, perhaps, the most practical of all commentators on the working of the British Constitution, and it was he who first pointed out the growth in modern times of a new Constitutional Convention which forbids a Premier to sit in the Lords. The rule is not absolute, of course. Since BAGEHOT wrote, Lord BEACONSFIELD, Lord SALISBURY, and Lord ROSEBERY have all been Peer-Premiers. But the two former made their political careers as debaters in the House of Commons, while Lord ROSEBERY was practically the personal choice of QUEEN VICTORIA, and was acquiesced in rather than accepted by the majority in the House of Commons. The selection of Mr. BALDWIN, practically a *novus homo* in political life, in preference to Lord CURZON, who has been a great political figure for a generation, marks dramatically the immense prestige which this convention now enjoys. As BAGEHOT points out, almost the reverse was the rule for the century which elapsed between the English and the French Revolution. Sir ROBERT WALPOLE was the first prominent commoner-premier, and his tenure of office was regarded as somewhat of an anomaly since, unlike HARLEY, he refused a peerage until he had finally fallen from office. He only succeeded in overcoming for twenty years popular prejudice in favour of a peer and the jealousy of the great Whig magnates, partly by his personal intimacy with the Sovereignty and partly by the pressing need of a financier to set in order the Exchequer and the National Budget. For the growth of foreign trade had created new fiscal problems, and the territorial magnates were not themselves possessed of the knowledge or interest in commerce required to solve them. The elder PITT was the next Premier who sat in the Commons, and he soon deserted the Commons for the Lords. His famous son and his great rival, CHARLES JAMES FOX, laid the foundation of the new tradition. There followed PERCIVAL, CANNING, PEEL, Lord JOHN RUSSELL, and PALMERSTON, all of whom sat in the Lower House; although LIVERPOOL, WELLINGTON, GREY, MELBOURNE and DERBY, kept the balance even, since they were Peer-Premiers. But with the accession of GLADSTONE and DISRAELI to the leadership of their respective parties, the superior claims of a Commoner to the Premiership became generally admitted, and now the convention seems all but finally established.

Twelve-Mile and Three-Mile Territorial Limits.

TWO INTERESTING problems of International Law are at present engrossing our Foreign Office. One concerns the "three-mile" territorial limit, and raises a friendly issue with the United States; the other relates to the revived Russian claims of a "twelve-mile" limit. It is a familiar doctrine of International Law, as laid down by eighteenth and nineteenth century jurists, that the territoriality of any sovereign state includes (1) its land territories; (2) lakes, rivers, and narrow estuaries of the sea within the ambit of its coast-line, but not "wide"

estuaries or international rivers; (3) the seas for a distance of three miles round its shore; and (4) its ships while on the high seas. The "three-mile" limit was a purely conventional limit, based on the practical range of guns placed in coast fortifications: in the age of Trafalgar this never exceeded three miles. Difficulties have often been occasioned as the result of the somewhat narrow character of this limit; modern trawling and fishing in banks on the ocean shelf of shallow water round the shores of European countries have created new problems. The right to control an estuary of the sea also depends on the three-mile limit: an estuary more than six miles in width is not a territorial water, for it contains an area of water in the centre which is more than three miles from either shore. This difficulty was felt in the famous Moray Forth case, and the consequent diplomatic negotiations with foreign powers. Russia has long refused to recognize the limit, and has set up instead a twelve-mile limit; her jurists, in pre-war days, supported this on the ground that modern coastal guns command a range of twelve miles, not three. In 1911 the Czarist Government seized a British trawler, the "Onward," found within the twelve-mile limit; but released it as a preliminary to a general conference of the Powers respecting some extension of the limit. War and previous rumours of impending war prevented this Conference from taking place. But it is clear that, sooner or later, modern conditions of steam-trawling will compel an extension of the limit, since no great country will submit *in perpetuo* to have its banks of fish despoiled by foreign trawlers, while its own are forbidden by restrictive laws to catch immature fish within waters close ashore. England, as well as Russia, really requires some legalized protection of her fisheries against the exploitation of foreign trawlers.

Conditional Legacies and Ecclesiastical Vestments.

THE QUESTION of the legality of wearing a black gown in the pulpit in the Established Church has been recalled by the decision of P. O. LAWRENCE, J., in *Re Robinson*, *Times*, 18th inst., on a point which arose under the will of a testatrix who died in 1889. The action, which was for the administration of the estate of the testatrix, first came before NORTH, J., in 1891, reported 1892, 1 Ch. 95, who held, in effect, that a condition attached to a legacy of £1,500 towards the endowment of an evangelical church at Bournemouth, that "the black gown should be worn in the pulpit unless there should be any alteration in the law rendering it illegal," was a continuing condition, and that the fund must be retained in court and the income paid to the incumbent if he should comply with the condition. The next stage was reached in 1896—see the report in 1897, 1 Ch. 85—when on an application by the first incumbent for payment to him of the income of the fund, the question of the legality of the use of the black gown in the pulpit was brought forward, and the Court of Appeal, consisting of Lord RUSSELL, C.J., LINDLEY and A. L. SMITH, L.JJ., agreed with NORTH, J., that the condition was a continuing condition, and found that the practice in question was not illegal, its legality being sanctioned by the continuous usage of centuries, uncontrolled by positive law or judicial decision; and they disapproved of a dictum of Sir ROBERT PHILLIMORE in *Elphinstone* v. *Purchas*, L.R. 3 A. & E., at p. 91, that the use of the black gown had no "warrant of law," on the ground that the learned judge had no point as to the legality or illegality of its use in the pulpit before him.

Dispensing with a Condition.

IN THE COURSE of the argument in the proceedings in 1896 the practical disappearance of the black gown from the pulpit is attributed not to fashion or chance, but to the view that the decision of *Ridsdale* v. *Clifton*, 2 P.D. 276, "makes it impossible for a clergyman seeking to obey the law to wear a black gown." The court, having however found that its use for that purpose was not illegal, said: "The application before us does not raise the question whether a scheme can properly be sanctioned by the court dispensing with the performance of the condition of preaching in a black gown or of any other of the conditions imposed by the testatrix. The court, therefore, expresses no opinion on the point." The church designated by the will had by that time been erected, but the incumbent, it seems, was not prepared to comply with the conditions as to the wearing of the black gown in the pulpit. An application, however, was recently made by the present incumbent for an order that the fund might be transferred to the Ecclesiastical Commissioners, who were willing to accept it as an endowment for the benefice. It was pointed out that the circumstances had entirely altered since the death of the testatrix; that all the conditions had been complied with except the wearing of the black gown in the pulpit; and that the main object of the testatrix (viz., the preservation and furtherance of sound evangelical doctrine) would be defeated if it were used, as its use would be likely to alienate the present large congregation. All the parties concerned were anxious that the condition should be dispensed with and, on behalf of the Attorney-General, it was suggested that a scheme might be sanctioned in the circumstances. Mr. Justice LAWRENCE, referring to *Re Richardson*, 4 T.L.R. 153, held that, in a case like the present, it was not essential to prove that the condition was physically impossible of performance, and that he was justified in regarding the condition as impracticable and one which ought to be dispensed with. He therefore made the desired order, but to ordinary persons who are not accustomed to regard questions of ecclesiastical vestments as of serious importance, it may seem that the rule as to compliance with conditions has been a little strained.

The Constitutional Difficulty of Enforcing Prohibition.

ONE OF THE peculiar characteristics of a Federal Constitution is showing itself in a way very interesting to constitutional lawyers in the operation of Prohibition Laws in the United States. Under the Constitution, until the recent amendment, liquor-control was a matter for each State, not for Congress. The Constitutional Amendment, which declared that intoxicating liquors must not be manufactured, sold, or consumed in the United States, did not transfer to Congress any jurisdiction over the liquor laws: it was essentially a declaratory enactment, not a penal statute. Of course, breach of a Constitutional prohibition is a common law misdemeanour, punishable on indictment in the federal courts; but no one can suppress or control liquor selling by means of a cumbrous procedure like indictment: summary jurisdiction remedies are necessary. In the "Dry" States, accordingly, drastic summary legislation, similar to our own penal Licensing Laws, but much more stringent, has been passed by the State Legislatures, and is enforced by the State Courts. In the "Wet" States no such legislation exists. The great State of New York has just repealed its State Legislation and is therefore in the same position as a "Wet" State. To meet the difficulty of enforcing the Constitutional amendment in "Wet" States, Congress passed two years ago a Prohibition Enforcement Act, the Volstead Act, enacting drastic summary penalties to be enforced by federal and State courts and officers alike. But the constitutional power of Congress to pass any such legislation is very doubtful, and the validity of each provision in the Volstead Act is being tested in detail in the Supreme Court. Meantime, pending the decision of each point raised—a slow process—the Volstead Act is not being enforced at all in "Wet" States. The whole procedure illustrates in a very striking way one of the weaknesses in a Federal Constitution pointed out by DICEY and by BRYCE.

Messrs. W. Heffer & Sons, Limited, publishers, Cambridge, have in the press an entirely revised edition of "Secretarial Practice." This volume has been prepared by the Council of the Chartered Institute of Secretaries with the object of providing a practical working treatise covering the general routine of a Secretary's duties. Though intended primarily for Secretaries of Companies incorporated under the Companies Acts, special chapters are devoted to Statutory Companies and Secretarial work in relation to Local Government Administration. The full text of the Companies (Consolidation) Act, 1908, the Companies Act, 1913, the Registration of Business Names Act, 1916, and the Companies (Particulars as to Directors) Act, 1917, are also included.

The Birth of a New Equity.

I.—The Passing of the Old.

By nothing is the reader of Mr. J. B. Atlay's "Victorian Chancellors" more impressed than the view he derives of the stupendous character of the work of law reform. Only too often it is approached without that public support which Lord Selborne, and more recently Lord Birkenhead, both said is required for creating the momentum necessary for the carriage of large measures. Unfortunately, too, in cases in which public opinion is stirred, diversity of view in those entitled to lead public opinion not infrequently manifests itself, and this, as Disraeli said when introducing the Appellate Jurisdiction Bill in the Commons, renders public opinion perplexed and inert.

Furthermore, when professional opinion might take the place of public opinion in affording the foundation upon which to build, professional opinion is only too often found agreed "in bending before the authority of former times," and preferring that regard be paid to the question of what the law is rather than the question what it ought to be. And when professional opinion is in its turn stirred, its energies not infrequently are directed to arresting reform in view of the dislocation of work, an extreme instance of which was afforded when Lord Brougham's "Local District Courts" Bill was met with a threat by the Common Law Bar and the London agency firms, to whom the scattering of business over the country meant substantial loss. The cumulative effect of this inertia on the one hand, and this resistance on the other, renders the task of carrying out reform fit only for those with mental and moral sinews of no common order; for even when public and professional opinion are both arrayed behind the work of reform, there is still, what Lord Birkenhead cites as the most formidable barrier ahead, and that is the fact that the Legislature is invariably too deeply engrossed with problems which appear more pressing and important, and time is therefore lacking for the consideration of legal measures.

It may well be, however, that we should not be discouraged on this account. The course of justice is like the alternation of the seasons. There is the hope and inspiration of spring and the achievement and reward of summer, and there is the descent and sacrifice of autumn and the moral and intellectual destitution of winter, and the changes in our jurisprudence will come accordingly in spite of us, however much we may be the appointed instruments in their consummation. With theft as a capital offence and more than 180 transgressions besides; with imprisonment for debt, and with technicality in civil procedure of a nature to cause a complete denial of justice, and these almost within modern times, the present position of justice marks but a recent emergence from the period of darkness. As Mr. Atlay says, Lord Brougham took upon himself to show that, in every department of our jurisprudence—in the common law, in the criminal law, in the ecclesiastical law, in the shoals of the local petty courts—there were to be found abuses and anachronisms not less glaring or less productive of daily misery and injustice. Those of us to-day, this author continues, who may be inclined, in moments of irritation, to murmur with Mr. Bumble that "the law is a ass" may gain from his speech the heavy burdens under which our parents and grandparents carried on their existence. They may glare in wonder at the series of penal statutes, the most bloody and inefficient in the world, at the puerile fictions which made every declaration and every plea unintelligible both to plaintiff and defendant, at the mummery of fines and recoveries, at the chaos of precedents, at the bottomless pit of Chancery.

How completely the light was obscured and appreciation dimmed as to what the debasement of the Judicature really was is shown by Lord Brougham when, in reference to Mr. Justice Blackstone's eulogy of it, he points to that jurist as a sleeper amidst a world of abuses. In recalling, as he does, the simplicity of method of the early pleaders and comparing it with the obscurities and perplexities of the later, his Lordship was only discovering in our jurisprudence its earlier perfections, and this method of study of the Judicature—this turning back to the period of its higher attainments—is the method most deserving of pursuit, for it is the one most calculated to yield reward. Already, it has brought much to life again for our advancement, for many of the reforms which Lord Brougham sought in this way have since been introduced. But much remains to come, and if there be one development more than another which should mark the growing epoch it is the birth of a new equity.

In seeking a new equity it may be said that equity already operates in our midst. So far from our lacking the amelioration of its precepts they have for several hundred years inspired a remedial jurisdiction, and since the Judicature Act of 1873, they have become enthroned in our jurisprudence, leavening it throughout. For, under the present dispensation, it is provided that law and equity shall be administered concurrently in the same courts, and where the rules of law and the rules of equity conflict, the rules of equity shall prevail. But the fact is that the equity which has attained this high station is no longer equity. It has become law, for, like law, it is held fast in the chains of judicial authority and the inflexibility of a cramped procedure. To quote an earlier paragraph, equity as originally administered is dead, for the virtue of it in its relations to law resided in its greater generosity of doctrine and its superior elasticity of method, and both these qualities have long since ceased to exist. Fundamentally, equity represented the appeal to the Sovereign in person, as being the fount of natural justice; and afterwards to the Sovereign in His High Court of Parliament. It originated in the unfettered judgment of the king, and it developed on constitutional lines, and petitions were then answered under the advice of Lords and Commons. Later a process of delegation set in. As these petitions grew in number they were transferred to the Court of Chancery, and that court, of ancient origin and until then administering law, acquired an equitable jurisdiction. Sir Matthew Hale says that, with beginnings thus made, it was not difficult for the Court of Chancery to add to the work, and so a system gradually evolved, forms and procedure emerged; the Chancellor, as keeper of the King's conscience and administrator of his grace, entered on his new judicial office; and eventually the Chancellor's Court, or, as it is called, the Court of Chancery, assumed the judicial work of the King in His High Court of Parliament.

The equitable jurisdiction of the Court of Chancery was founded on the avowed principle of moderating the rigours of the common law and relieving suitors from the hardship of that *Jus strictum* into which it had sunk. So long as the jurisdiction retained its youth, its freedom and elasticity were preserved, and the illumination it shed on our jurisprudence was maintained. But the administration of equity, like the administration of law, in course of time became more and more bound and confined within the channels of its own precedents and the technicalities of its own procedure, until it, too, became a *Jus strictum* differing little from the common law except in point of identity of the judicial decisions it had made its own. As a matter of fact, it compared unfavourably with the common law, for the hardening of equity has been accompanied by an amelioration of the common law, brought about by reform, until the latter has become marked by more liberality of judicial thought, by a greater freedom in practice, and so by a nearer approximation to that reservoir of natural justice from which it, no less than equity, originally sprang.

It is said that equity signifies moral justice of which the laws are the imperfect expression, and thus the equity of a statute means the fair and wise construction of it according to the intention of Parliament as distinguished from the literal and technical construction of the words used. It may be questioned whether equity ever went so far in principle as to construe a statute with such generosity as to effect a positive amendment of it, for that would imply a usurpation of the powers of the legislature. Whether or not that were the operation of equity as a separate jurisdiction, it is not the operation of equity in its association with law. An unreported case is in point. The

Court of Chancery had recently construed a new Act of Parliament in accordance with what seemed its obvious intentions, but it was overruled on appeal. The Court of Appeal said that they were inclined to think that the intention was as the judge below had construed it, but what they had to look at was whether the Legislature had carried out that intention, and in their opinion it had not. And they added that they were quite aware that their decision might in certain cases give rise to the most hopeless confusion, but they agreed that they were not entitled to look at that. The fact was that the Legislature had unfortunately omitted, in framing the Act, to see the difficulty which arose.

These principles of construction apply now throughout the Judicature, in Chancery as well as in the King's Bench; in the Court of Appeal no less than in the High Court; in the House of Lords equally with the courts below; and, from the consideration of these developments, the tremendous fact emerges that, not only are the courts in their administration of justice without the correction and relief afforded by equity, in the true conception of that term, as an independent jurisdiction, but the final Court of Appeal in the United Kingdom is now a Court of Law, whereas in former days it was a Court of Equity. The decline of equity commenced when Parliament began to part with its jurisdiction and delegated it to the Court of Chancery. Its fall came through the iniquities of procedure which the court in time developed, and its subsequent fusion with law served nothing more nor less than to give it decent burial after its true spirit had departed from it.

In consequence, we are now in the position in civil procedure, in which we should be in criminal, if the Court of Criminal Appeal had superseded the prerogative of mercy. In civil as in criminal matters we want the active jurisdiction of the King restored to us. He is, and from the beginning has been, the fountain of justice and the immediate source of equity; and in like manner as, in the mutations of the seasons, we look to the nearer approach to the sun for our restoration; so, in the realm of justice, amelioration comes from contact with the King. If only Lord Selborne's scheme for the supersession of the House of Lords as a judicial chamber were carried out, that amelioration would be the more imminent, since one of the barriers that now prevent association with the Crown would in that way be removed.

Douglas M. Gane.

(To be continued.)

The Habeas Corpus Act.

I.

The arrest last March of 110 persons in different places in England and Scotland, and their deportation to Ireland without being tried under powers supposed to be conferred upon the Secretary of State by Regulation 14B of the Restoration of Order in Ireland Regulations, and their subsequent release and return in consequence of the decision of the Court of Appeal in *Art O'Brien's Case*, *ante*, p. 553, that the deportations were illegal, have invested with interest the well-known provisions of the Habeas Corpus Act, 1679, 31 Car. 2, c. 2 (not suspended as in 1816), and in particular s. 11 of that Act (a provision entirely unaffected by any repeal in the succeeding centuries) which inhibits under penalties of extraordinary severity the sending of a native-born Englishman a prisoner into Ireland (amongst other countries), with the object of preventing illegal imprisonment in prisons beyond the seas. During the Great War, the internment of a British subject, whether a native-born (*Rex.* v. *Governor of Brixton Prison*, 21st December, 1915), or a naturalised British subject (*Rex* v. *Halliday*, 1917, A.C. 260), was authorised down to 1920 under s. 1 (1) and Regulation 14B of the Defence of the Realm (Consolidation) Act, 1914; but no case can be found of deportation under this provision.

There are various forms of the Writ of Habeas Corpus, of which the most famous is that known as *Habeas Corpus ad subjiciendum*, the well-established remedy for the violation of personal liberty. In presenting a petition from the Canadian Prisoners in 1839, Lord Brougham alluded to the Habeas Corpus Act as "the glory of our name and nation"—"the bulwark of our personal liberties" (*Hansard*, Third Series; Vol. 48, p. 165). Lord Macaulay eulogizes the Habeas Corpus Act in the following terms: "The Habeas Corpus Act is not a new right, but a prompt and searching remedy . . . the most stringent curb that ever legislation imposed on tyranny . . . it is a law which, not by circuitous, but by direct operation, adds to the security and happiness of every inhabitant of the realm": Hist. England, Vol. I, p. 258; II, 256; IV, 49; VII, 298. Macaulay quotes Dr. Johnson ("the most bigoted of Tories") as saying: "The Habeas Corpus is the single advantage which our government has over that of other countries." Johnson delivered this constitutional aphorism in 1769; but, in less than two decades afterwards, "the blessings of liberty" were pledged to the American people and to their posterity in the preamble of the Constitution. Again, eleven years before this saying of Dr. Johnson, Vattel declared that liberty was "the soul, the treasure, and the fundamental law" of Switzerland; "Law of Nations," Chitty's transl., Pref. xviii.

The tribute of Lord Macaulay to the Habeas Corpus Act is as true as it is eloquent. The measure of 1679 was not a new remedy against arbitrary imprisonment. "Those famous words [Habeas Corpus] are making their way into divers writs, but for any habitual use of them for the purpose of investigating the cause of an imprisonment we must wait until a later time (than the thirteenth century): Pollock and Maitland, 2 Hist. Engl. Law, 2nd ed. 586. But there is some ground for supposing that the writ was known in times anterior to Magna Carta: Hallam, "Middle Ages," Fifth ed., Vol. II, p. 449. It is in any case certain that the common law Habeas Corpus is of very great antiquity. The fact that it was not habitually used as a remedy for arbitrary imprisonment in the thirteenth century may be that the offence was rare, and therefore specimens of the writ in such cases would be difficult to meet with.

By the ancient common law false imprisonment was felony, and its punishment involved the application of the *Lex Talionis*, imprisonment for imprisonment: Britton, Brunner, D. R. G. cited, Pollock and Maitland, *supra* p. 489.

In early times the Writ of Habeas Corpus was a collateral and not an exclusive remedy of the subject. The writs "*de odio et atia*" and mainprise (sought to be used in India as late as 1870) had a somewhat similar effect. The object of the writ "*de odio et atia*" was the prevention of imprisonment on vexatious appeals of felony. It has been abolished for centuries; Stephen says since the Statute of Gloucester, 1278. Mainprise (mentioned by Lord Hale) was a species of bail required from persons taken on suspicion of felony whose bail had been refused Stephen, 1 Hist. Cr. Law, p. 240.

Procedure under the Act.

The Writ of Habeas Corpus is a writ issued out of the High Court of Justice commanding the person to whom it is directed to bring the body of a person in his custody before the court, with the day and cause of his detention. It is an extraordinary remedy like *mandamus*, *certiorari*, and prohibition, granted by the Superior Courts. It is necessary to show a probable cause for the application verified by affidavit, because, though the writ is of right, it is not of course, and the reasons must be stated to the court: per Lord Tenterden, L.C.J., in *Sir John Hobhouse's Case*, 3 B. & Ald. 420, 1820; S.C. 2 Chitty's Rep. 20. When a writ is issued under the Habeas Corpus Act, 1679, it must be marked, "*Per Statutum tricesimo primo Caroli Secundi Regis*"; but this is, of course not done when it is issued at common law, as in the *Canadian Prisoners' Case*, *supra*, 973; note in 9 A. & E. 740.

In the recent case at the first application for a rule *nisi* of habeas corpus, Avory, J., held that sufficient proof that a person was imprisoned could only be rendered by an affidavit of the prisoner (*Ex parte O'Brien*, March, 1923); but when the party imprisoned is so coerced as to be unable to make an affidavit, an affidavit from some other person to that effect has been held, as in the case of the Canadian prisoners, adequate proof of the cause of an application for a Writ of Habeas Corpus: 3 St. Tr. N.S. 963.

Under s. 5 of the Habeas Corpus Act, 1679, the return to the writ is made by a copy of the warrant of commitment (which the gaoler may be fined £100 for refusing), or by an affidavit that a copy is denied. The court will grant a rule *nisi* for an attachment against a person who makes a false return, as where the return states that the prisoner has been convicted of high treason when that is not so: *Canadian Prisoners' Case*, *supra*. The true copy of the warrant must, by s. 5, be delivered six hours after the demand (which may be made by the prisoner), and the fine of £100 for failing to comply with this provision may be recovered by an action of debt in the High Court. If the return is held good, the court remands the prisoner, but the writ is not quashed, *semble*, because there may be an alias and a pluries, as in the *Canadian Prisoners' Case*; Note to Fry's Rep. 39; 3 St. Tr. N.S. 974. This case also decides that the court or a judge may allow or direct an amendment of the return, even after it has been read or filed.

Sir James Stephen describes the Writ of Habeas Corpus as the well-known protection against wrongful imprisonment, "associated with the most stirring period of our history": 1 Hist. Cr. Law, p. 243. However, the greatest writer on the Criminal Law

of England for much more than a century appears in this passage to discuss the writ only in connection with one form of wrongful imprisonment, that occurring where bail is wrongfully withheld, and he even indulges in adverse criticism of the Habeas Corpus Act. Thus, he objects that it may probably be availed of to bail a person indicted for misdemeanour though the magistrates may have refused bail quite correctly. But the gravest offence against the Habeas Corpus Act, visited with sanctions of "unusual severity" (Hallam, *supra*) namely, the sending a person a prisoner abroad for a supposed criminal matter (31 Car. 2, c. 2, s. 12)—is a totally different thing from a wrongful refusal of bail.

Again, the reason for the copy of the warrant not being a good return, at the hearing of the rule *nisi* for the Writ of Habeas Corpus, when it states that the party has been committed for misdemeanour, seems clearly to be that bail is *of right* in the case of misdemeanour at the common law: Archbold's Cr. Pl. Evid. and Pr. 24th ed., p. 112.

The Writ and Aliens.

It is settled law that no Writ of Habeas Corpus will be granted in the case of a prisoner of war: per Bailhache, J., in *Rex* v. *Inspector, Vine St. Police Station*, 1916, 1 K.B. 268, 275, referring to *R.* v. *Schiever*, 1759, 2 Burr. 765; *Furley* v. *Newnham*, 1780, 2 Doug. 419; *The Three Spanish Sailors*, 1779, 2 W. Bl. 1324. It was held in the above case in 1916 that an alien enemy may properly be described as a prisoner of war, although he is neither a combatant nor spy, and that when the Executive consider such a person hostile to the welfare of this country, he may be imprisoned by virtue of the prerogative, and that in such a case the King's Bench Division has no jurisdiction to interfere. It may be supposed that it was always law that the Crown is entitled, in the exercise of its prerogative, to imprison an alien enemy who is a prisoner of war, though the issue does not seem to have been raised in the courts till comparatively modern times.

At common law the Writ of Habeas Corpus will lie for an alien, this principle going back to the case of Sommersett, the negro slave, 20 How. St. Ir. 1 (1771), and to that of the Hottentot Venus, 13 East's Rep. 194 (1810).

But the preamble of the Habeas Corpus Act, 1679, where the words "King's subjects" are exclusively employed, the title of the Act ("for the better securing the Liberty of the Subject"), and words in s. 12 ("no subject of this Realm shall . . . be sent prisoner," etc.), demonstrate conclusively that the statutory Writ of Habeas Corpus will not run for an alien, but only for a native-born Englishman.

Habeas Corpus in the Reign of Charles I.

By the time of Charles I the Writ of Habeas Corpus was fully established as the appropriate process for checking illegal imprisonment by inferior courts or public officials. But during that reign one of the most important issues between the King and Parliament was whether the special command of the King signified by the Privy Council was a good return to a Writ of Habeas Corpus. The land-marks of the subject, on the one hand, are the *Five Knights' Case*, 1627, and *Selden's Case*, 1629, while, on the other, there are the Petition of Right, 1627, and the Act of the Long Parliament abolishing the Star Chamber, 1640. In the *Five Knights' Case* there was no cause shewn; while Selden and others were charged with sedition, but there was no trial, and the prisoners were committed by the King's special command, and therefore it was equally an instance of arbitrary imprisonment. The result of the constitutional struggle on the subject between Charles I and the Long Parliament seems incidentally gathered up in a short passage of a recent judgment in the House of Lords: "It is the settled law of this country . . . that if a wrongful act has been committed against the person or the property of any person the wrongdoer cannot set up as a defence that the act was done by command of the Crown. The Crown can do no wrong, and the Sovereign cannot be sued in tort, but the person who did the act is liable in damages, as any private person would be; per Viscount Finlay in *Johnstone* v. *Pedlar*, 1921, 2 A.C. 262, 271.

N. W. Sibley.
J. A. Howard Watson.

(To be continued.)

Lord Bacon as the First English Legal Historian.

In the May number of the *Contemporary Review*, there appears an interesting essay by Professor Hearnshaw on "Bacon as Historian?" Professor Hearnshaw is himself a great authority on Administrative and Constitutional History, and it is interesting to find that he regards Lord Bacon as the father, not only of philosophical, but of legal history in England. This instructive essay discusses from many varied aspects Bacon's claims to a high rank among English historians, but the one which concerns us is his position as a narrator of the development, in Tudor times, of our legal and constitutional institutions.

It was just 300 years ago that Bacon gave to the world his "History of the Reign of Henry VII," which Dean Church anticipated Professor Hearnshaw in pronouncing to be "the first attempt at philosophical history in the language." This work was composed and written at a difficult moment of Bacon's career. Impeachment by the Commons had been followed two years before (1621) by his dismissal from the Woolsack and his retirement to St. Albans in disgrace. His active mind and colossal industry craved work, and he turned his leisure to (1) philosophy, (2) literature, (3) history. But his "History of Henry VII" had a double purpose to serve. It war partly a genuine contribution to the "Advancement of Learning," but partly also a rather crafty effort to interest and win support from the King. For Bacon proceeded to court James I with the same eye to intrigue with which, a generation before, he had courted Elizabeth. But in each case he failed. Queen "Bess" loved men who were "piratical" or "poetical"—to quote Professor Hearnshaw's phrase—and she had no taste for a prosaic and crafty-minded philosopher-lawyer. King James loved law and philosophy, but he considered that he already embodied in himself all attainable wisdom in either of these directions, so that a rival pedant had no attractions for him. Thus Bacon's disingenuous effort to conciliate him under the guise of writing a history of the great Tudor monarch, who asserted in practice that dogma of the "Divine Right of Kings" which James loudly proclaimed in theory, completely failed to regain the Royal favour.

But, if Bacon's work failed in its immediate purpose, it yet served a larger end. It set a real model for the historian of the future, who should be interested in legal and constitutional problems, rather than in mere personalities or picturesqueness of battles and courtly episodes. In this respect Bacon was two, if not three, centuries ahead of his age. His work is the only real forerunner of "Hallam" and "Freeman" and "Maitland" found in the seventeenth and eighteenth centuries.

Among the projects which Bacon in his forced retirement turned over in his mind was one for the codification of the Laws of England, and this he had submitted in a memorandum to James I. Had the King heeded this report, Bacon might have anticipated by three centuries the work that bears the name of Lord Halsbury, and, indeed, he would have carried it much farther. For his projected "Encyclopædia of the Laws of England" would have been, not a mere unauthoritative compendium of private hands, but a definitely recognised code. He would have done for England at the beginning of the century what Lord Stair did for Scotland at its ending. This was not to be. But Bacon used some part of the materials collected for another aim when he turned to the completion of his history. "The Reign of Henry VII" contains three matters of high importance, novel to the litterateur of that age. In the first place, it contains a careful note of all the legislation—constitutional, social, purely juristic—introduced by Henry VII, and shows that it followed one constant aim, that of restoring the traditional Social Order of England, broken in pieces by Reformation and Wars of the Roses, by the Black Death, and the Crusades, by the decay of agriculture, the growth of pastoral pursuits, and the building up of capitalistic industry not less than of foreign trade. In the second place, it shows the diplomatic and international law developments of the Tudor Period, by no means the least interesting of its features, for it was the age of Grotius, of Sully, and of Vico. Lastly, he discusses the value of "Sovereignty," the constitutional limits or lack of limits to the supremacy of the Supreme Lawgiver, whether Parliament or King, and those peculiarities of our constitution which Professor Dicey re-discovered, and to which that learned writer gave the now familiar names of "Rule of Law," "Supremacy of Parliament," and "Conventions of our Constitution."

Bacon's summary of the legal and constitutional changes of Henry VII is masterly; it is even yet more complete—within its narrow compass—than that of any successor. He points out the centralizing policy which resulted from Henry's effort to curb anarchy and disorder; his strong policy of domestic reconstruction with its harsh labour legislation, and its attempt to suppress vagrancy; his abolition of "livery and maintenance"—which put an end to the old feudalism; his institution of the Star Chamber as a Court of Criminal Equity Jurisprudence; his financial and administrative statutes which anticipated the Treasury policy of the present day. His unification of the legal systems of Wales and England is also pointed out. His massive discipline of anarchical Ireland by means of law courts, judicial officers, a system of procedure, and the introduction of the English Common Law; that also is treated with insight and appreciation. His network of Continental treaties, the beginnings of our Treaty-legislation in International Law, is also noted and explained by the lynx-eyed ex-Chancellor.

Bacon was not only a thinker, but a lover of epigram, and his pages abound in trenchant aphorisms. About the origin of wars

he points out that "pretext is never wanting to power"; of "direct action," as we now call it, he writes that Henry VII "would never endure that the base multitude should frustrate the authority of the Parliament wherein their votes and consents were concluded." As to the suggested limitations of the Sovereign Power, recently put forward by Coke, namely, that the King in Parliament cannot by new legislation infringe either an old statute or a fundamental principle of the Common Law, he writes: "A supreme and absolute authority cannot conclude itself, neither can that which is in nature revocable be made fixed, no more than if a man should appoint or desire by his will that if he made any latter will it should be void." In these three brief aphorisms we seem to see a microcosm of present-day teaching as to international affairs and Constitutional Law.

There is one interesting point on which Professor Hearnshaw touches which is not strictly germane to a discussion of Bacon in his aspect of legal historian, but which is so interesting in connection with a wider Baconian controversy that we cannot pass it over without a mention. He analyses the legal and philosophical conceptions of English history found (1) in Bacon's "Henry VII," and (2) in Shakespeare's Historical Plays. He endeavours to show that the views put forward in each are the exact contradiction of one another; just as the brilliant, but classical, style of Bacon differs from the undisciplined romanticism of Shakespeare. The dramatist's views of English history are patriotic, semi-mystical, romantically personal, anti-bourgeois, with a preference for personal action over law. The views of "Henry VII" are prosaic, cautiously imperialistic in a hesitating way, very legalistic and utterly opposed to a romantic or an aristocratic view of our history. In fact, the pedant and the bureaucrat in Bacon clearly dictates his historical judgment. Professor Hearnshaw concludes—we think a little too strongly—that the author of Bacon's "Reign of Henry VII" could not, even by a literary miracle, have composed the "Falstaff" plays of Shakespeare.

Books of the Week.

Conveyancing.—Key and Elphinstone's Compendium of Precedents in Conveyancing. Eleventh edition. By FREDERICK TRENTHAM MAW, B.A., LL.B., Barrister-at-Law. Assisted by JAMES IRVINE STIRLING, M.A., CLAUDE EUSTACE SHEBBEARE, HOWARD WADE RENSHAW, B.A., LL.B., and HARRY FARRAR, M.C., M.A., LL.B., Barristers-at-Law. In two vols. Vol. II. Sweet & Maxwell, Ltd. £5 5s. net for the two vols.

[Our readers, like ourselves, will be glad to see that the new edition of "Key and Elphinstone" is now complete; for our notice of Vol. I, see p. 534, *ante*.]

Carriage by Railway.—The Law of Carriage by Railway. By HENRY W. DISNEY, B.A. (Oxon.), Barrister-at-Law. Sixth edition. Stevens & Sons, Ltd. 12s. 6d.

Correspondence.

The Law of Property Act, 1922: Notice to Trustees.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—May I call attention to a point which does not appear to have received sufficient notice, namely the extension which will apparently result in the number of transactions to which the rule in *Dearle* v. *Hall* will apply? Will it not now be necessary to give notice of any dealing to which the rule applies to the "estate owner" as well as to the Trustees?

This would appear to be a favourable opportunity of extending the Trustee Acts to provide that a Register shall be kept of all trust documents containing the particulars provided for in Rule 16 of The Public Trustee Rules, 1912, with the provisions for inspection and copies provided for in Rule 29. F.R.B.

30th April.

[This question is of great importance, and it is possible that the new Act would cause the extension to which our correspondent refers. We presume it will be considered in drafting the Consolidation Bills.—Ed. *S.J.*]

Mr. Justice Hill granted a decree *nisi* of divorce on the 18th inst. on the petition of Mrs. Ada Matilda Diver, who alleged cruelty, desertion and adultery by her husband, George Henry Diver. The case was undefended. The petitioner, in evidence, said that for three years and two months her husband had not spoken to her, though he came to the house and had dinner every day. Adultery was proved at an address at Bexhill last year. His lordship held that the husband's unusual conduct amounted to desertion.

CASES OF LAST SITTINGS.

House of Lords.

BRUNNER, MOND & CO. *v.* MANCHESTER SHIP CANAL CO.: ATTORNEY-GENERAL *v.* MANCHESTER SHIP CANAL CO.

11th May.

CANAL COMPANY—TOLLS AND DUES—TRAFFIC FACILITIES—ACCESS TO LOCK—DEPTH OF CHANNEL—STATUTORY OBLIGATION OF COMPANY.

In one of two actions heard together the Canal Company sued the appellants for tolls and ship dues for the passage of their vessels along the canal. In the other action the appellants claimed a declaration that the Canal Company were under a statutory obligation to maintain a navigable and defined access to the main channel.

Held, affirming the decision of the Court of Appeal, that the plaintiffs in the first action succeeded, and the plaintiffs in the second action failed, the Canal Company having duly discharged their statutory obligation.

In the first action, brought by the Manchester Ship Canal Co. against Brunner, Mond & Co., the plaintiffs claimed canal tolls and ship dues for the passage of the defendants' vessels along the canal, the defence being that they were entitled to a free user of the canal on account of the failure of the plaintiffs to maintain an access as required by the Manchester Ship Canal Act, 1885. In the second action the Attorney-General, at the relation of Brunner, Mond & Co., the relators claimed a declaration that the Canal Company were under a statutory obligation to maintain the access and also an injunction ordering the Canal Company to provide such access. The gist of the relators' complaint was that the Canal Company had not discharged their statutory obligation of affording adequate facilities for the traffic to and from the Weaver Navigation. Mr. Justice Sankey held that the Canal Company had discharged their duty and were entitled to the tolls and dues. He also held that the claim in the second action failed and that no injunction ought to be granted. These decisions were affirmed by the Court of Appeal. Brunner, Mond & Co. now appealed to the House in the first action and the Attorney-General and relators in the second action.

Lord BUCKMASTER said that in his opinion the appeals failed, and that the difficulty that he found in giving the reasons for that conclusion was that they had already been so fully given in the judgment of Scrutton, L.J., that it was impossible to express them again without reiteration. Two questions arose on the construction of s.s. 7 of s. 71 of the Manchester Ship Canal Act, 1885. It was said first, that the actual depth of the channel defined in the sub-section was not preserved by the Canal Company, and secondly, and this was the real question on the present appeal, that the obligation imposed upon the Canal Company to maintain an access involved not merely that the access should be navigable, but in addition that by some means or other it should be defined. Lights and buoys were the obvious method of definition, but the appellants did not confine themselves to those if other means could be used for the purpose. The solution of the question thus raised required an examination of the circumstances as they existed at the date of the passing of the Act and also, for the purpose of seeing whether there had been a breach, the subsequent events. At the date of the passing of the Act, apart from the position of the Weaver Navigation, one of the relevant considerations was the position of the main channel and what was contemplated by providing an access towards it. It appeared that though the main channel varied almost from tide to tide, yet before the passing of the Act the most frequent and constant course lay down on the left bank of the Mersey Estuary and near to the docks. Since 1885, due, it was suggested, to the construction of the canal works, though it was equally possible that the cause was the vagaries of a wandering stream, the main channel had been over towards the right bank and was now very much further distant from the docks than it used to be. Of the events subsequent to the statute it might be fairly accepted in the appellants' favour that the winding nature of the access and the unstability of its course rendered navigation a difficult and perilous thing to those who had no special means of knowledge as to the character and position of the access itself; while on the other hand those who knew could navigate with safety though for limited periods of time before and after the flood tide. The duty of the Canal Company in respect of the depth of the channel was definitely defined by the Act, and if they failed to keep a height of three feet six inches above a certain point, they were guilty of a breach of their statutory duty. Nor was that the only duty that the statute cast upon them. To maintain an access with this fixed limitation as to its depth must mean an access capable of being used by vessels up to the draught that could safely navigate in the limits of depth provided by the statutory obligations. It seemed plain that, from some time in 1916 up to July, 1918, the statutory depth of access was maintained though it was suggested that since there had been failure to maintain it. Further the access must permit vessels to pass each other, but this did not mean that the access must throughout the whole of its length be sufficiently wide for this purpose. It was sufficient if there were reasonable facilities for passing. Up to that point there was but little dispute as to the obligation. It was on the subsequent obligation to buoy and to define round which the contest centred. That in the end must be a mere question of language. Lord Justice Atkin thought that an access was not maintained unless it were in some way pointed out and defined, and he illustrated his view by an access through a bog. He could not help thinking that the Lord Justice was led

to this conclusion by assuming that an access in itself was something that rendered a place accessible to a person having no knowledge of the course that the access took, because, without such knowledge, to such a person the right of access would be unprofitable unless he could find some one to point out the way. If no one could find the access, and if there were no means by which it could be ascertained, it might be that an access not merely unknown but undiscoverable would not be an access at all, but that was not the case in the present instance. This access could be ascertained, though if unknown it was a difficult channel for boats of heavy draught. He found it difficult to accept the view that to provide an access meant more than the provision of a means by which people could approach a given point. The views of Scrutton and Bankes, L.JJ., on this point gave the right construction of the statute. In his opinion both the appeals failed.

Lord CARSON concurred, and the other noble and learned Lords gave judgment to the same effect.—COUNSEL: *Upjohn*, K.C., *Kennedy*, K.C., *H. Johnston* and *B. Reece*; *Sir John Simon*, K.C., *Sir Leslie Scott*, K.C., *Atkinson*, K.C., and *Dunlop*, K.C. SOLICITORS: *Grundy, Kershaw, Samson and Co.*; *Blyth, Dutton, Hartley & Blyth*, for *Hatt-Cook, Chambers & Kershaw*, Northwich.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

Court of Appeal.

ARNOLD OTTO MEYER AND CO. *v.* FABER: SAME *v.* ELDER.

No. 1. 18th, 19th April, 17th May.

PARTNERSHIP—ENGLISH AND GERMAN PARTNERS—OUTBREAK OF WAR—ENGLISH PARTNER WINDING UP BUSINESS—EMERGENCY LEGISLATION—CONTROLLER'S CLAIM TO BALANCE OF ASSETS—CLAIM OF ENGLISH PARTNER AGAINST THE FIRM—RIGHT TO ACCOUNTS BETWEEN PARTNERS BEFORE PARTING WITH BALANCE—TRADING WITH THE ENEMY AMENDMENT ACT, 1916, 5 & 6 Geo. 5, c. 105, s. 1 (2)—TRADING WITH THE ENEMY AMENDMENT ACT, 1918, 8 & 9 Geo. 5, c. 31, ss. 1, 3.

The controller appointed under the Trading with the Enemy Act, 1916, and the amending Act of 1918 for the purpose of supervising the winding up of enemy, or mainly enemy, businesses cannot require an English partner who has wound up the business of himself and enemy partners to hand over the surplus assets of the firm to him without reference to the rights as between the partners. The Acts do not abrogate the right of the English partner to have an account taken as between himself and the other partners for the purpose of ascertaining what part of the assets is properly due to himself.

This was an appeal from a decision of Eve, J. In August, 1914, A. G. Faber, a British subject, living in London, was carrying on the firm known as Arnold Otto Meyer and Co. with three German partners, resident in Germany. In October, 1914, he applied for and obtained the sanction of the Home Office to his collecting the firm's assets, discharging its liabilities, and generally winding up the business. He continued doing this under certain orders made by the Board of Trade, received sums of about £27,500 from his German partners, and collected nearly £200,000 of the firm's assets. After paying claims due by the firm there remained in his hands a sum of about £4,087. The controller appointed by the Board of Trade under s. 1 (2) of the Trading with the Enemy Amendment Act, 1916, called upon Faber to pay over this money to him, but Faber contended that he himself had claims against the business, and that the amounts due to, or held on account of the business could not be ascertained until the usual partnership accounts had been taken between the partners. Faber died in October, 1920, and the action was brought by the controller, in the name of the firm, against his executor, claiming the balance in question. Eve, J., gave judgment for the plaintiff. The defendant appealed. The Court allowed the appeal. *Cur. ad. vult.*

Lord STERNDALE, M.R., stated the facts, reviewed the different provisions of the Trading with the Enemy Acts and the order made under them by the Board of Trade appointing a controller, and said that the defendant's contention was that until the partnership accounts were taken, it was impossible to say what sum he held for or on account of the partnership. He also took the point that the controller could only sue in the firm's name, and that he was suing the defendant in the defendant's name as a member of the firm, which supported the contention that the defendant could not be said to be holding these sums for or on account of the firm. *Primâ facie* there could not be such a thing as a sum due to a business; it was due to the individuals who comprised the firm; but several cases had held that a business was sufficiently an entity to make it possible to have sums due to the business, and the question was whether the doctrine went sufficiently far to make it a separate entity so that it could sue its partners, and if not whether the controller appointed under the Trading with the Enemy Amendment Act could sue in his own right. It was difficult to see how these Acts gave a right, which did not exist before, to members of a partnership in the firm name, or in their own name as individuals, to sue another member of the partnership, even after a dissolution, for sums which he had in his hands, without taking the partnership account in order to ascertain how much was in fact held by him for other persons and not for himself to satisfy his own share of the partnership assets and profits. It would be a curious thing if the individual who had money in his hands should be compelled to hand over to the controller sums due to himself because the controller was in charge of the business. The Rules under Order 48A of the Rules of the Supreme Court, as to actions between firms and their members, did not seem in that respect to alter the position of partners, or the rights which they had in law and equity one against the other. He (his Lordship) thought, therefore, that the controller, using the firm's name, had no greater rights than the firm itself would have, and the firm itself could not demand that the money in the hands of a partner should be handed over to the firm, which meant to the individuals comprising the firm other than that partner, because the action was brought in the firm's name. The position of the controller under the Acts must, however, be considered. If he were in the position of a trustee in bankruptcy, who had all the power and rights of action vested in him, not for the benefit of particular partners, but for everybody, then it was possible that he might be able to sue. But he was not in that position. His outside powers were those of a liquidator in a voluntary winding up of a company, and a voluntary liquidator must sue in the name of the company, and had only the rights of the company. There was nothing to constitute a business an entity to the extent that was necessary to enable it to sue one of its members, apart from and irrespective of the fact that that member was a member of the partnership. It might be that this sort of case was not contemplated when the Trading with the Enemy Acts were passed, and that those Acts only thought of debts from outside debtors. The enemy partner's interests could, it seemed, be vested in a custodian; he could have partnership accounts taken, and the defendant could be made to pay what was due on the taking of the accounts. But the action of the controller was wrongly conceived, and the appeal must be allowed with costs.

Lords Justices WARRINGTON and YOUNGER gave judgments to the same effect.—COUNSEL: *Clayton*, K.C., and *Hecksher* for the appellant; *Gover*, K.C., and *Vaisey* for the controller. SOLICITORS: *Roney & Co.*; *Walker, Martineau & Co.*

[Reported by G. T. WHITFIELD-HAYES, Barrister-at-Law.]

High Court—Chancery Division.

Re TAYLOR'S DRUG COMPANY'S APPLICATION.

Eve, J. 1st May.

TRADE MARK—REGISTRATION—"GERMOCEA"—COMPOUND OF TWO EXISTING MARKS—RISK OF CONFUSION—CALCULATED TO DECEIVE—REFUSAL OF REGISTRATION.

The word "Germocea" held not to be a registrable trade mark on the ground that it partially resembled two existing trade marks, "Germoline" and "Homocea," to such an extent as to lead to a risk of confusion between the goods offered for sale under each of the three.

This was a motion by Taylor's Drug Company, Ltd., by way of appeal from the refusal of the Registrar to proceed with the registration of the word "Germocea," in Classes 3 and 48, on the ground that it was calculated to cause confusion and to deceive. The applicants were manufacturing chemists, in Leeds, and were proprietors of over 100 retail shops. On 20th May, 1921, they applied to register their proposed mark in Class 3 in respect of chemical substances, and in Class 48 in respect of perfumery. These applications were opposed by Lady Mary Veno, and the Veno Drug Co., Ltd., upon the ground that the word so nearly resembled their trade mark "Germoline," registered in the same two classes in respect of a medicated skin ointment, and medicated soap, as to be calculated to deceive, and on the ground that their mark had become distinctive of the goods for which the registration of "Germocea" was sought. The owners of "Homocea" had not opposed before the Registrar, but they filed a declaration to the effect that "Germocea" would be confused with "Homocea," their registered trade mark, and that they would have opposed the registration of "Germocea" had they known of the application for its registration. Large sums had been spent in advertising the opponents' mark, and "Homocea" had been registered and largely used for many years past. The Registrar of Trade Marks held that he could not refuse to register "Germocea" because of its resemblance to "Germoline," but that "Germocea" partially resembled both "Germoline" and "Homocea" to such an extent that the ordinary public would be confused, and he refused to register the mark.

EVE, J., in a considered judgment, said: This is a motion by way of appeal by Taylor's Drug Company Ltd., from the refusal by the Registrar to proceed with the registration of the word "Germocea," in Classes 3 and 48, on the ground that it is calculated to cause confusion and to deceive. Registration is opposed by the owners of the registered mark "Germoline," and is objected to by the owners of the registered mark "Homocea." The word "Germocea" had not been used for any goods offered for sale prior to the application, but it is intended for use in connection with preparations of the same character, and to be used for the same purposes as those sold by the objectors under their respective marks. It is an obvious compound of the two existing marks. The opponents have proved the expenditure of a very large sum in advertising their mark, and steadily progressive gross receipts for the preparations sold thereunder, amounting to several thousands of pounds per month. "Homocea" has been registered and largely used for many years past. It is to be noted that no confusion has been found to arise between similar preparations sold in the same shops under the two marks "Germoline" and "Homocea." The question for consideration here is whether the same immunity from confusion and the same distinctiveness will be maintained in the case of like commodities marketed under the word "Germocea," or whether, as has been well put on behalf of the respondents, the compound word may not bridge over the distinction between the two registered marks, and create confusion between the goods offered for sale under each of the three. The learned Registrar, though not prepared to hold that the applicants' mark

so nearly resembles "Germoline" as to cause confusion or to be calculated to deceive, has refused to proceed with the registration on the ground that the presence of "Homocea" on the register is a factor which introduces a risk of confusion sufficient in the circumstances to justify his refusal to proceed with the registration. I agree with him, and think that the appeal fails and must be dismissed with costs.—COUNSEL: *Hunter Gray*, K.C., and *Sebastian*; *Sir Duncan Kerly*, K.C., and *R. Moritz*. SOLICITORS: *Timbrell & Deighton*; *Hedley Norris & Co.*, for *Vaudrey, Osborne & Mellor*, Manchester.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

In re **WALTER WRIGHT, LIMITED.** P. O. Lawrence, J. 17th April.

PRACTICE—COMPANY'S NAME STRUCK OFF REGISTER—PETITION TO RESTORE—SHAREHOLDERS THE ONLY PETITIONERS—COMPANY PARTY TO UNDERTAKE—COMPANIES (CONSOLIDATION) ACT, 1908, 8 Edw. 7, c. 69, s. 242.

Where the name of a company has been struck off the register under s. 242 of the Companies (Consolidation) Act, 1908, and a petition to restore is brought by shareholders, the company should be added as co-petitioner in order that they may give the undertakings required by the Board of Trade to make the necessary returns.

This was a petition presented by two shareholders of the above company, of whom one was managing director and secretary of the company, for the restoration of the name of the company to the Register of Companies, the name of the company having been struck off the said register under s. 242 of the Companies (Consolidation) Act, 1908, because of failure to give to the Registrar proper notice of change of the registered office of the company. The Registrar of Companies was the only person who had been made respondent to the petition, and he took the objection to it that the company should be co-petitioners in order to give the usual undertakings to make the returns required by the Board of Trade. He stated that in other cases the petition had stood over in order that the company might be joined as a party to it.

P. O. LAWRENCE, J., after stating the facts, said: This petition must be amended by joining the company as co-petitioners.—COUNSEL: *W. P. Spens*; *Dighton Pollock*. SOLICITORS: *J. I. Jonas*; *Solicitor to the Board of Trade*.

[Reported by L. M. MAY, Barrister-at-Law.]

High Court—King's Bench Division.

BRITISH OIL AND CAKE CO. LTD. *v.* J. BURSTALL & CO. LTD.: J. BURSTALL & CO. LTD. *v.* J. H. RAYNER & CO.: RAYNER & CO. *v.* C. D. BOWRING & CO. LTD. Rowlatt, J. 16th, 17th, 18th April.

SALE OF GOODS—COPRA CAKES CONTAINING POISONOUS SUBSTANCE—CATTLE POISONED THROUGH EATING CAKES—LATENT DEFECT—GOODS SOLD NOT THOSE CONTRACTED FOR—BREACH OF CONTRACT—CLAIM OF PURCHASERS—DAMAGES—LIABILITY.

A quantity of East African copra cakes was sold as cattle food, and re-sold by the purchaser to various sub-purchasers. The cattle to which the cakes were given became ill, and it was discovered that for some unexplained reason a large percentage of castor bean had become mixed with the cakes in question. Several actions (which were heard together) were commenced for damages for breach of contract in respect of these cakes.

Held, that there had been a breach of contract, as the article supplied was not the article contracted for; and that the first purchasers were entitled to recover from the original vendors all the damages claimed, including the compensation paid to sub-purchasers.

A quantity of East African copra cakes was bought by the British Oil and Cake Company, Limited, from Burstall & Company, and re-sold to various distributors. The cattle to which it was given became ill, and it was discovered that the cakes, for some unexplained cause, contained a large percentage of castor bean. These actions were commenced for damages for breach of contract in respect of the sale of the cake. The issue being substantially identical in these actions, Rowlatt, J., ordered that they should come on for hearing together.

ROWLATT, J., in delivering judgment, said that this was not a case of mere adulteration, and that the article sold was not that contracted for. Many claims for damages had been made by farmers who had used the cakes, and the British Oil and Cake Company had settled them directly with the claimants. In answer to the question, what was the contract between the parties, it was clear that, as the article sold was not that contracted for, there had been a breach of contract. As to the damages, it appeared to be the law that if the article sold was "patently" not the article contracted for, the buyer could not use it at the risk of his seller. There was, however, no duty on a buyer to protect his seller from the consequences of his own mistake, and where the nature of an article was not "patent," the buyer was entitled to use it on the assumption that it was the article contracted for. In the present case, having regard to the evidence, the cake could not be said to be "patently" cake containing castor bean. The British Oil and Cake Company were entitled to recover all the damages, including the compensation paid to sub-purchasers. His lordship also gave judgment in favour of the plaintiffs in the other two actions.—COUNSEL: *Maclinnon*, K.C. and *Micklethwait*; *Hastings*, K.C., and *Wallington*; *R. A. Wright*, K.C., and *Lilley*; *Jowitt*, K.C., *Claughton Scott*, K.C. SOLICITORS: *Stow, Preston & Lyttleton*; *Lowless & Co.*; *Rehder & Higgs*; *Cosmo Cran & Co.*

[Reported by J. L. DENISON, Barrister-at-Law.]

In Parliament.

New Statutes.

On 17th May, the Royal Assent was given to—

Dangerous Drugs and Poisons (Amendment) Act, 1923.

Local Authorities (Emergency Provisions) Act, 1923.

Increase of Rent and Mortgage Interest Restrictions (Continuance Act, 1923.

And to several Provisional Orders and local Acts.

House of Lords.

16th May: Discussion on the Deportations to Ireland. Earl Russell moved to resolve: "That in the opinion of this House there is no justification for the retention by the Executive of any powers of arrest without trial."

In the course of the discussion, the Lord Chancellor said: It is necessary, and this is the view which the Government take, to consider very carefully how far the powers conferred by this Regulation [see *O'Brien's Case*, *ante*, p. 553], when its meaning is made clear, should be retained and used in case of need. While that inquiry is proceeding, and I hope a decision will be come to within a very short period, it would be most unwise for Parliament to pass a Resolution of this kind absolutely tying our hands whatever the result of that inquiry may be. I hope no such Resolution will be accepted by your Lordships' House. The facts are still not generally known. They ought to be further made known, and when they are known and the position is made clear, then Parliament will be better able to come to a decision.

Viscount Grey of Fallodon said: I recognise the point that your Lordships ought not to pass a Resolution which will make it clear that in no circumstances, not even if another great war was upon us, should the Constitution be suspended, and I am anxious not to vote for anything which would by its wording absolutely tie the hands of this and future Governments. But when this question of the power of the Government of this country in ordinary circumstances to arrest without trial is raised as a general principle it stirs my blood, and I want to give a vote for that principle and I do not want to leave this House without having given a vote for that principle. I would, therefore, read once more the words which I have drafted and which I think are not open to any objection: "This House affirms the long-established principle of the Constitution that the Executive should not, without the previous and special authority of Parliament, exercise the power of arrest without trial." If the noble Earl withdraws his Motion, I should like to move those words instead of it. If not, I should like to move those words as an Amendment to his Motion. So far as I am concerned, I would still hope that the Government might think my words so safe that they would accept them. But I really would like to stand by those words and to give a vote for them. I beg to move to leave out all words after the word "That" and insert "this House affirms the long-established principle of the Constitution that the Executive should not, without the previous and special authority of Parliament, exercise the power of arrest without trial." The Amendment was withdrawn, and Earl Russell, in withdrawing the motion, said: My Lords, the noble Marquess the Leader of the House has truly said that we none of us desire to embarrass each other or to put each other in a false position. Therefore, I think, as the question is going to be raised in a substantive form by a Motion that will satisfy all our constitutional requirements, the best plan for me to pursue would be to withdraw my Motion.

Motion, by leave, withdrawn.

Special Constables Bill, considered in Committee.

Discussion on Juvenile Unemployment Centres.

House of Commons.

Questions.

VALUATION OFFICE.

Sir E. STOCKTON (Manchester, Exchange) asked the Chancellor of the Exchequer whether the surplus staff rendered unnecessary by the abandonment of the land values taxation is now transferred to Somerset House and elsewhere and engaged in making new assessments without any direct or personal knowledge?

Major BOYD-CARPENTER: There is no surplus staff in the Valuation Office, the abandonment of the Land Values Duties having been followed by a very large reduction in personnel. The office, which is decentralised and embraces a body of professional valuers of great ability, continues to perform many Exchequer functions for Revenue and other Government purposes which are detailed in Command Paper 918 of 1920. Its professional members have, in addition to their normal duties, dealt with cases of especial difficulty arising on the recent re-assessment of property to Income Tax. The suggestion that they have done so without direct or personal knowledge is totally unfounded.

OXFORD UNIVERSITY (POWERS AND JURISDICTION).

Mr. FRANK GRAY (Oxford) asked the Attorney-General (1) whether he is aware that any case pending in the High Court of Justice may be removed from the jurisdiction of such Court if one party only is a resident member of the Oxford University; and whether he will consider the desirability of amending the law in this respect;

(2) whether he is aware that the University of Oxford possesses powers over markets, weights and measures, theatres, and travellers by train, ousting or in competition with authorities set up by this House, and not confined in their operation to Oxford or the members of the University of Oxford; and whether he will initiate legislation to revoke such powers;

(3) whether he is aware that persons arrested in Oxford on criminal charges may be removed from the jurisdiction of the city magistrates at any stage of the proceedings if members of the University; and whether he will consider the desirability of amending the law so as to accord equality among citizens?

The ATTORNEY-GENERAL (Sir Douglas Hogg): With the leave of the House I will answer these questions together. The answer to the first part of each question is in the affirmative. The answer to the last part of each question is in the negative.

LEGAL PROCEDURE (MANCHESTER SHIP CANAL CASE).

Mr. HURD (Frome) asked the Attorney-General whether his attention has been called to the strictures passed by Lord Justice Scrutton upon our legal procedure which, in the Manchester Ship Canal case, permitted thirty days' continuous hearing in the Court of First Instance and more than a fortnight in the Court of Appeal, at a cost estimated at over £150,000, for the elucidation of what was after all a simple question; and whether steps will be taken in the public interest to curtail what the Lord Justice called expensive and dilatory legal contests?

The ATTORNEY-GENERAL: It is not possible within the limits of an answer to deal fully with this matter beyond stating that Lord Justice Atkin, who was a member of the Court, disagreed with the judgment referred to, and I see no reason for taking any steps in the matter.

Mr. HURD: Would the right hon. Gentleman think it expedient to invite the Lord Justice and one or two of his colleagues to see whether some measures cannot be taken to remove these legal excrescences?

The ATTORNEY-GENERAL: I am always anxious to receive any suggestion from any member of the Judicial Bench for the improvement of our legal system, and if the Lord Justice has any constructive proposals to make I have no doubt that he will communicate them to me. (16th May.)

HOME SECRETARY (PROCEEDINGS).

Sir KINGSLEY WOOD (Woolwich, West) asked the Home Secretary whether any and, if so, what is the nature of the proceedings commenced against him in his capacity as Home Secretary in relation to recent Irish deportations; and what is the relief claimed and damages sought?

Mr. BRIDGEMAN: Proceedings are being brought in the Court of King's Bench by Art O'Brien and Arthur Fitzgerald O'Hara. O'Brien's action is for damages for false imprisonment, a declaration as to the penalties and disabilities imposed by the Statute of 16 Richard II, and s. 11 of the Act 31 Charles II, Chapter 2, and costs. O'Hara's action is for damages for illegal arrest and false imprisonment, and treble costs.

ATTORNEY-GENERAL (CONSULTATION).

Sir KINGSLEY WOOD (Woolwich, West) asked the Attorney-General whether the Law Officers of the Crown were consulted as to the recent action of the Government in relation to the Irish deportations; and, if so, whether he can arrange for the terms of such opinion to be communicated to Members of the House?

The ATTORNEY-GENERAL (Sir Douglas Hogg): As I stated in the course of Debate, my right hon. Friend the Home Secretary consulted me with reference to this matter. With regard to the last part of the question, I understand it to be a long established rule of this House that the opinions of the Law Officers of the Crown are absolutely confidential and that neither Ministers nor the Law Officers of the Crown may be interrogated about them. I have the less reluctance to rely upon the rule in the present case, because I do not think that anyone who listened to the Debates can have any doubt what my opinion was.

Sir KINGSLEY WOOD: Do I understand that the Solicitor-General was not consulted in this matter and that there was no considered opinion given by both Law Officers of the Crown as is usual in such important cases.

The ATTORNEY-GENERAL: I do not think it would be desirable to discuss the exact form in which the Law Officers of the Crown give their opinion, but I take full responsibility for the opinion which I gave.

INCOME TAX.

Mrs. WINTRINGHAM (Louth) asked the Chancellor of the Exchequer the estimated loss to the Exchequer in a full year if a revision of the Income Tax was made, in order to allow for the separate assessment of the incomes of married women?

Mr. BALDWIN: If the existing system of taxation of incomes were so altered that the incomes of married persons were taxed separately, it is estimated that the immediate loss to the Exchequer would be £11,700,000, and that the ultimate loss would approximate to £33,000,000. (17th May.)

New Bills.

Post Office Bill—"to enable Post Office regulations to be made for the purpose of preventing the evasion of the payment of postage": Sir William Joynson-Hicks. [Bill 133.]

Workmen's Compensation (No. 2) Bill—"to amend The Workmen's Compensation Act, 1906, and the Acts amending that Act, and to amend the Law with respect to employers' liability insurance, the notification of accidents, first aid, and ambulance": Mr. Secretary Bridgeman. [Bill 134.]

Adoption of Children (No. 2) Bill—"to make further provision for the adoption of children by suitable persons": Mr. Gerald Hurst. [Bill 135.] (15th May.)

Co-operative Societies Liberation Bill—"to render illegal the application of funds and levies of co-operative societies to political purposes": Sir Kingsley Wood, on leave given, by 200 to 159. [Bill 144.]

Finance Act (1922) Amendment Bill—"to amend certain provisions of the Finance Act, 1922": Mr. Mosley. [Bill 145.] "The Bill," according to Mr. Mosley's statement, "amends the Act by suspending the operation of s. 32 for a period of one year. It is proposed to accomplish this by, throughout the Clause, substituting the year 1923-24 for the year 1924-25. That is the whole Bill. The rest of the Measure consists merely of references for the purpose of that postponement. The object of the Measure is not in any way to enable any person to escape his proper share of taxation. Those who support this Bill have no desire to do that. The Bill merely postpones the operation of this section for one year with the object of instituting a full and adequate inquiry into the whole basis of assessment." (16th May.)

Agricultural Credits Bill—"to facilitate the advance of money and the grant of credit for certain agricultural purposes, and to amend The Improvement of Land Act, 1864, and for purposes connected therewith": Sir Robert Sanders. [Bill 147.]

Restoration of Order in Ireland (Indemnity) Bill—"to prohibit the institution and prosecution of legal proceedings in respect of action taken under the Restoration of Order in Ireland Regulation": Mr. Chancellor of the Exchequer. [Bill 148.]

Agricultural Rates Bill—"to amend the law relating to the relief from rates to be given in respect of agricultural land in England, and agricultural land and heritages in Scotland, and for purposes in connection therewith": Mr. Neville Chamberlain. [Bill 149.] (17th May.)

New Orders.

New Trustee Stock.

NOTICE.

COLONIAL STOCK ACT, 1900 (63 AND 64 VICT., C. 62).

ADDITION TO LIST OF STOCKS UNDER SECTION 2.

Pursuant to Section 2 of the Colonial Stock Act, 1900, the Lords Commissioners of His Majesty's Treasury hereby give notice that the provisions of the Act have been complied with in respect of the undermentioned Stock registered or inscribed in the United Kingdom:—

Jamaica Government 4½ per cent. Inscribed Stock, 1941-1971.

The restrictions mentioned in Section 2, sub-section (2), of the Trustee Act, 1893, apply to the above Stock (see Colonial Stock Act, 1900, Section 2).

Orders in Council.

THE JURIES ORDER, 1923.

[*Recital of the Juries Act*, 1922 (*hereinafter referred to as "the said Act."*)]

It is hereby ordered as follows:—

1. The name of any person appearing in the electors lists for the Autumn Register for any year who is qualified and liable to serve as a juror shall be marked with the letter "J" and the name of any person so appearing who is qualified to serve as a special juror shall be marked with the letters "SJ" in manner following, that is to say:—

The said letter or letters shall (subject to any variation authorized by the Secretary of State in any particular case) be printed in heavy type and inserted in Column (3) of the Register, immediately after the names of the juror concerned, as in the following example:—

Whitehead, Albert Stanley—J
Longmore, William—SJ.

2. (1) The particulars to be furnished by the overseers to the registration officer under sub-section (3) of section 1 of the said Act, shall be furnished in the following manner, that is to say, the overseers shall, as the registration officer may require—

(*a*) furnish the registration officer with a list of all the persons in their parish, or where the parish consists of more than one registration unit, in each registration unit in their parish, who are qualified and liable to serve as jurors, showing in the case of each person the address of his qualifying premises in that unit and elsewhere in the parish and the value of those premises for the purposes of assessment to the poor rate or inhabited house duty and his occupation, and whether that person is qualified to serve as a special juror;

(b) insert in copies of the electors lists and lists of claimants, if any, the marks required by this Order to be inserted in the electors lists for the Autumn Register against the names of the persons in those lists who are qualified and liable to serve as jurors, or qualified to serve as special jurors, as the case may be, and to transmit to the registration officer the copies so marked.

(2) If the registration officer, for the purpose of his duties under the said Act, requires any particulars in addition to those provided in manner aforesaid, he may send to the overseers a demand for further information on Form C of heading I of Schedule I to the Representation of the People Order, or on a form similar thereto, and the overseers shall complete and return the form.

3. Where an application is made to the registration officer by any person marked as a juror to have the mark placed against his name removed, notification by the registration officer of his decision under sub-section (5) of section one of the said Act shall be given to that person on or before the fifteenth day of September in any year.

4. (1) If, where the registration officer under paragraph 21 of the First Schedule to the Representation of the People Act, 1918, allows a claim made by any person to be registered as a voter, the registration officer considers that person to be qualified and liable to serve as a juror, he shall give that person notice that he will be marked as a juror unless within five clear days thereafter he gives notice of objection to the registration officer, and in any case in which the registration officer is of opinion that any person who has made a claim to be registered as a voter would, if so registered, be qualified and liable to serve as a juror, he shall include in any notice issued under the said paragraph as to the time and place at which the claim of that person to be so registered will be considered, a notice that if the claim is allowed that person will be marked as a juror unless he gives notice of objection to being so marked in manner aforesaid.

(2) The decision of the registration officer on any objection made by any person under this Article shall be notified on or before the fifteenth day of September in any year.

(3) If any person is aggrieved by the decision of the registration officer on any such objection or by his failure to notify his decision, he may apply to a court of summary jurisdiction under sub-section (5) of section 1 of the said Act, in the same manner as if the registration officer had refused to comply with an application made to him under sub-section (4) of the said section or had failed to notify his decision thereon.

5. Sub-section (2) of section two of the said Act shall have effect as if the reference therein to persons marked in the electors lists as jurors or special jurors included a reference to persons whose names are on the list of claimants and who receive notice in accordance with Article 4 (1) of this Order that they will be marked as jurors.

6. (1) Any sheriff by whom a jury symmons is issued may require the person to whom the summons is issued to furnish to him in writing information with respect to his sex, profession, calling or business.

(2) If any person required by a sheriff to furnish information in pursuance of this Article fails to furnish in writing to the sheriff the required information within three days after the date on which the jury summons is received by him, or furnishes false information, he shall be liable on summary conviction in respect of each offence to a penalty not exceeding five pounds.

(3) Where a sheriff requires information to be furnished in pursuance of this Article, he shall for the purposes of facilitating the furnishing of the information enclose with the jury summons an officially-stamped postcard on which the information may be given.

7. (1) This Order may be cited as the Juries Order, 1923.

(2) The Juries Order, 1922, and the Jurors (Information as to Professions) Order, 1922, are hereby revoked.

4th May. [*Gazette*, 15th May.

RECIPROCAL ENFORCEMENT OF JUDGMENTS.

Orders in Council have been made for extending Part II of the Administration of Justice Act, 1920, to:—

Newfoundland.
New Zealand.
The Protectorate of Kenya.
Southern Rhodesia.
The Falkland Islands.
Fiji.
The Colony of the Gambia.
The Colony of Kenya.

Nothing in the Orders is to affect the registration or enforcement in the Irish Free State of any judgment in pursuance of Part II of the said Act.

4th May. [*Gazette*, 15th May.

Home Office.

DANGEROUS DRUGS (No. 2) REGULATION, 1923.

In pursuance of Section 7 of the Dangerous Drugs Act, 1920, I hereby make the following Regulation, which may be cited as the Dangerous Drugs (No. 2) Regulation, 1923:—

Regulation 1 of the Dangerous Drugs Regulations, 1922 [S.R. & O., 1922, No. 1087], is hereby revoked.

W. C. Bridgeman,
16th May. One of His Majesty's Principal Secretaries of State.

Ministry of Health.

MILK PROSECUTIONS.

The following Circular has been issued to the Clerks of Local Authorities:—

Sir,—I am directed by the Minister of Health to state that he has had under consideration Circular 325 of the 17th of July, 1922, with reference to prosecutions for selling milk deficient in fat.

From information which he has had before him it is evident that this Circular has been widely misunderstood and to some extent misrepresented, with the result that it has not produced the effect which was intended.

In the circumstances he has decided to withdraw the Circular, feeling that he can rely on the responsible local authorities to administer the Sale of Food and Drugs Acts with due fairness and consideration to the various interests concerned.

A. K. Maclachlan,
Assistant Secretary.

The Clerk of the Council, or the Town Clerk.

Societies.

The Middle Temple.

Lord Salvesen has been elected an honorary Bencher and Mr. J. A. Hawke, K.C., M.P., has been elected a Bencher of the Middle Temple.

The Law Society.

ATTENDANCE AT LAW SCHOOLS DURING ARTICLES.

The Council, says The Law Society's *Gazette* for May, make a general recommendation to the profession that, in taking clerks who are not exempt from attendance at a Law School, the principal should covenant with such clerks to permit them, during articles, to comply with the provisions of s. 2 of The Solicitors Act, 1922.

The following specimen clause, to give effect to this provision, has been prepared for insertion in articles of clerkship:—

The solicitor covenants with the clerk that he will in and during the said term of years give all reasonable facilities to the clerk to enable him while serving under these articles to make such attendance at a course of legal education at a law school provided or approved by The Law Society under the provisions of section 2 (1) of the Solicitors Act, 1922, as will satisfy the requirements of The Law Society under the said section.

Law Association.

The usual Monthly Meeting of the Directors was held at The Law Society Hall, on Friday, the 4th inst., Mr. T. H. Gardiner in the chair. The other Directors present were Mr. E. B. V. Christian, Mr. P. E. Marshall, Mr. A. E. Pridham, Mr. Wm. Winterbotham and Mr. W. M. Woodhouse, with the Secretary (Mr. E. E. Barron). The sum of £75 was voted in relief of deserving applicants. A new member was elected and other general business transacted.

Grotius Society.

ANNUAL MEETING.

The Annual Meeting of the Grotius Society was held in the Inner Temple Hall on Wednesday, the 16th inst., Sir Alfred Hopkinson, K.C., presiding. Among those present were Lord Phillimore, Sir Henry Duke, H. E. Baron Hayashi (Japanese Ambassador), M. Gaston de Leval, Sir Graham Bower, K.C., Mr. Herbert Manisty, K.C., Mr. C. A. Russell, K.C., Mr. H. S. Q. Henriques, K.C., B.C.L., His Hon. Sir Alfred Tobin, His Hon. Judge Mulligan, His Hon. Judge Simner, Mr. Frederick Sherwood (Recorder of Worcester), Mr. W. B. Bisschop, LL.D., Dr. C. J. Colombos, Mr. R. Pyke, Admiral F. N. Lawrence, Admiral Dent, Professor B. P. Haigh, Professor A. Pearce Higgins, LL.D., and Professor Bellot, D.C.L. (Hon. Secretary).

The Chairman regretted that the Lord Chancellor, who had been announced to preside, could not be present, his duties in the House of Lords making his presence in that assembly imperative. At the meeting of the Council that day, Lord Cave had been elected President for the coming year. The Society was continuing to progress in a thoroughly satisfactory manner. Its publications were really valuable contributions to the science of international law. It was the only society which looked at the subject mainly from the British point of view.

The International Problem of Law and Order.

Sir Henry Duke delivered an address. He said that the work of Grotius might be described as the acorn from which the great tree of international jurisprudence had grown, and the assembly and functioning of the tribunal at the Hague as the first fruits. He called his subject "The International Problem of Law and Order." Really if it had been called "The Problem," that would have been sufficient, because when one spoke to the average man of international law as being a solution for our difficulties and a safeguard against our perils, he felt almost that he was being mocked. He looked back upon the past nine years of anguish, and he looked into the welter of discord, and said "Well, if these are the fruits of international law, what of international law? And if these things have taken place contrary to international law, what of its sanctions?" He did not find law and order in the international domain, and it was that discrepancy of things which raised the problem which he (Sir Henry) had to present. The gravity of it could not be estimated unless in the spirit involved in the fables of old times, where it was said, "The fates set to the man an enigma, and if he failed to solve it, the penalty was death." That was the gravity of the problem which presented itself to the civilised nations in the circumstances of to-day. He had chosen the phrase "law and order," because the thing did not exist in the international domain and it did exist in the national domain. The history might be traced of the effort to control anarchy among States by artificial means through Leagues of Nations, through Imperial Supremacies, through Religious Supremacies, by means of the sanctions of Treaties, by oaths, by the establishment of material interests, until one could take up the story when it was taken up, by jurists and statesmen in the United States of America especially, something more than thirty years ago, when efforts were set on foot, which seemed in 1913 and the spring of 1914 to be on the point of producing some such concordat amongst the Powers as was arrived at at the Versailles Congress in 1919, when, by the signatures of the representatives of the powerful nations in the civilized world, there was concluded a covenant, the Covenant of the League of Nations. There were people who regarded the existing state of affairs with such indignation that they cast a blame upon the citizens of the United States because of the course the United States had taken in respect of the Covenant of the League of Nations; but let them reflect what was involved. Within the national boundaries, at any rate, there was law and order and sanctions. Was it a reckless thing that men who realized that those blessings were secured to the nation by its independent authority, and by its freedom from external interference, should hesitate before they abandoned one safeguard of its international authority or put down one bulwark against external interference? Men realized that, at any rate within the national domain there was law and order of such sort as nations insisted upon, and that outside it, as between the States, there was not; and it was not a selfish thing, or a non-moral thing, that a man should hesitate before be broke down the bulwarks which divided the domain in which there were anarchy and chaos from the domain in which there were law and order; and for his part he had nothing but sympathy for the public men and the jurists of the United States when they endeavoured to reconcile the security of their own order and the security of their liberties, with the possibility of the establishment in the international domain of an authority external to their own, which might function by peaceful means, but which, mankind being what it has been, it was not an idle fear to think might possibly function by other means.

The Covenant of the League of Nations.

The real question was, not whether we were going to look for the establishment of peace by means of the Covenant of the League of Nations or by means of the concerted action of Powers, or by means of edicts of the Permanent Tribunal at the Hague, but whether in the Covenant and in the events which had followed it, there were the foundations for a new departure. He thought we ought gravely to consider that. As to the League of Nations, it was optional; it was incomplete; the Covenant was so some extent provisional, and many of the things contemplated were tentative in their character. Let us not judge it by documents, or by intentions; let us consider what had happened by reason of the Covenant in the international domain. The Covenant of the League and the events under it had demonstrated the means of the meeting of the Powers, the forum in which there might be an Assembly, and the purposes to which the Assembly might be directed. That was a great gain, it was a new fact in the history of the world. The League had an Assembly and it had a Council, and they had been at work—the Council at any rate—with a great deal of activity, very often with conspicuous want of success, as many of its critics said; but they had been at work in the international arena for something like two years, and if they had done nothing else, they had secured that various questions should be committed to the Permanent Court of Justice at the Hague. They were the only existing means of bringing nations together in peaceful contact for the purpose of settling world-wide differences, and it was a cause of thankfulness that there was this masterpiece of the Assembly and the Council. It was full of work and the prospect was that it would remain fully engaged at its work during the coming year, and the vista of its work was worthy of its character and of the high renown of the jurists who compose it. Those were facts, events in recent history, but the facts did not stand in such a state that the Assembly or the League or the Tribunal could be relied upon to stay one self-willed Power from throwing Europe into convulsions of war. Bearing in mind what the past had been, he did not use that in disparagement of the League or the Assembly or the Council, the wonder to him was that they had come into being and had functioned in such a period as that through which we had lately passed, and had confronted and survived the convulsions of the time since the war. And, so far as the Permanent Tribunal was concerned, there was, he ventured to believe, the strongest reason for hope that the United States, which for so long has sought such a Tribunal as exists at The Hague, would whole-heartedly give it its support. All its benefits were within the same range of possibility as the range of possibility which attended security derived from treaty and the arrangements devised mutually between States for their common benefit. There was no law in the national and juristic sense and yet there were sanctions. He would not underestimate the value of the sanctions which appeared in Article 16 of the Covenant. They were tremendous sanctions, and, if they were carried into effect, they would enable the civilised Powers to put a State offending against justice into a condition of ostracism and isolation. The article provided for the cessation of all the relations, industrial and commercial, and to some extent social, between the States which stand for law and the States which they deemed to stand against law. It was one of the most formidable proposals ever contained in any international instrument, but its operation was optional upon the concurrence of all the States represented in the Assembly and the Council, and its effect was limited by safeguards which rendered it at the present time an object of interest rather than of terror. The problem was how jurists and statesmen were going to secure mutual protection against the evil of war.

It would be said that it was hopeless, and that you invoked new perils when you set on the States to control one another in this international domain. He did not believe it. As to enlarging the scope and membership of the Assembly and the representative character of the Council, that was a matter for statesmen, not for jurists.

International Legislation.

But legislation was a matter for jurists as much as for statesmen. Was it possible, in view of the perils of international interference, to conceive that national Assemblies would permit of legislation by an international authority which should operate within their territories? Perhaps not. The apprehensions which had been voiced in the United States, and which became the more serious as they were examined, would probably prevent the citizens of independent and orderly communities from invoking legislative interference by an international authority, but there were precedents for dealing with that difficulty. There was the method of conventions by which the projects of legislation were devised in the common interest, and concurrent legislation subsequently in the national Assemblies, and that had been used with tremendous benefit in various directions; it was very conspicuous in respect of many matters relating to shipping; and it was worthy of consideration whether that method of procedure would not avoid the risks of international interference in national affairs which would be mischievous, while at the same time it gave to the nations the opportunity of securing the advantage that every statute, which was deemed advisable in the common interest of peace, should have operation by national law within its boundaries. Every nation then could deal with its own subjects in respect of infraction of those statutes, and he did not think that it passed the wit of man to devise means by which all the nations should submit their respective subjects to be justiciable in respect of alleged infractions of public law before some competent tribunal. It was in that direction it seemed to him that the Tribunal at the Hague might ultimately be of immeasurable value. Every man knew with what indignation men found in 1919 that indisputable crimes committed during the war must go unpunished for want of law against them and of penal sanctions for the enforcement of the law.

THE SANCTIONS OF THE COVENANT.

Another grave matter concerned the sanctions. The Covenant of the League of Nations did contemplate the resort to armed force. That was a matter as to which there was no probability of early action by the common consent of all civilised powers, but armed force certainly was not put out of the case at the present time. But he would urge them to set their minds against military sanctions in favour of pacific measures. Whether peace could ever be secured by military means was a matter past his solution, but his own belief was that in Article 16 a means was provided whereby, as to States, a degree of pressure could be exercised which would probably be irresistible. All the interests of the modern world were interwoven, and a State could be visited with penalties, not merely within its border, but wherever commerce ramified or mankind circulated. A sanction was provided by the Article which could protect humanity to a great extent against aggression, certainly against idle and hasty aggression. To what extent could the ambit of the powers of the Assembly and Council be enlarged so as to operate in enactments of State upon which the Tribunal at the Hague can found its decrees? The Covenant dealt with the unlimited manufacture of and traffic in munitions of war. The States could deal with that. Perhaps it was quixotic to suggest that there might be some area in which international authority might function. If it could have functioned to prevent the use of the air as a field for hostile operations, or to prohibit some forms of warfare, it would have been highly beneficial; or if it could have found some means by which the intangible line of the frontier was put under international safeguards, that would have been an enormous advance. These were directions in which conceivably the Assembly and the League, if nations came to co-operate, might extend their activities, but something was needed behind all this—it was motive power.

THE MOTIVE POWER FOR THE COVENANT.

The Covenant would not work by itself; the Assembly had no resources of its own. The Council might enact decrees, and they might be futile; the Tribunal might meet and might pronounce solemn judgments, and they might be disregarded. The conscience of man condemned aggressive war, but to differentiate war and war and to ascertain how to denounce aggressive war, and by what means to secure an adjudication upon it, seemed hopeless. The Covenant of the League of Nations proposed a mode of discrimination. It proposed that the nations should submit to adjudication the question of whether there was a *casus belli* according to the principles which had governed mankind during the ages in which international law had grown up, whether there was a *casus belli* so that the man who made war was not offending against the moral sanctions which ought to prohibit war. It might not seem hopeless, in the progress of the Assembly and the Council and the Court, to secure such adjudications as would eventuate in the condemnation and punishment of those who made aggressive war, but we were separated by distances almost incalculable from that event. How we were to secure the motive power which should set in action these agencies, capable of fruition for good as he believed them to be towards the human race, was one of the questions of the time. It was not a question for jurists, but jurists could clear the air so that misconceptions should cease, and contribute by discussion and by conference conclusions as to the steps by which progress might be made. He had thrown out these observations as to the new departure which he thought was possible, and which would convert the science of international law from a science of theories into a science of actualities.

Lord Phillimore expressed his belief that it would not be possible to enforce international law unless there was a strong feeling in all great nations that law and order must be preserved at all costs; and a vote of thanks to Sir Henry was adopted, on the motion of Sir Graham Bower, seconded by M. Gaston de Leval.

The Return to the Writ of Habeas Corpus in the O'Brien Case.

In the Court of Appeal on 16th inst., says *The Times*, before Lord Justice Bankes, Lord Justice Scrutton, and Lord Justice Atkin, the return was made to the writ of *habeas corpus* in accordance with the order of the court made on 9th inst., *ante*, p. 553.

The Attorney-General (Sir Douglas Hogg, K.C.) and Mr. Giveen appeared for the Home Secretary; Mr. P. Hastings, K.C., Mr. St. John Field, and Mr. R. O'Sullivan appeared for Mr. O'Brien.

The Attorney-General said that the return had been ordered to be made at 10.30 that morning. The simplest course, therefore, would be to read the original draft of the return, which was in the following terms:—

"I, William Clive Bridgeman, his Majesty's Secretary of State for Home Affairs, in obedience to the writ herewith, do certify and return that Art O'Brien, in the said writ mentioned, was taken on March 11, 1923, in pursuance of an order made by me, dated March 7, 1923, under the Restoration of Order in Ireland Regulations, Regulation No. 14B, on the recommendation of a competent military authority as being a person suspected of acting, having acted, or being about to act in a manner prejudicial to the restoration and maintenance of order in Ireland, it appearing to me expedient to make such order for securing the restoration or maintenance of order in Ireland, and in pursuance of such order he was interned in the Irish Free State. I produce the body of the said Art O'Brien."

The Attorney-General, continuing, said that in view of their lordships' decision last week, the effect of which was that there was no jurisdiction to make the order, and in view of the fact that the House of Lords had held that they had no jurisdiction to review that decision, he presumed that the order of the court must be for the discharge of Mr. O'Brien.

Lord Justice Bankes: The order will be that the applicant will be discharged and the officer of the court will draw up the formal order in the usual way.

Mr. Hastings said that the question of costs had been reserved at the previous hearing, and he now formally asked that the applicant should be granted the costs of the application.

The Attorney-General: I think that your lordships have jurisdiction to grant costs.

Lord Justice Bankes: The order will be made with costs.

Mr. Hastings: Will that entitle the applicant to immediate discharge?

Lord Justice Bankes: Yes.

Solicitors: The Treasury Solicitor: Messrs. Gisborne, Woodhouse & Co.

Reports of Divorce Cases.

The following is the text of the Bill introduced by Sir Evelyn Cecil "To regulate the publication of reports of certain judicial proceedings in such manner as to prevent injury to public morals":—

Be it enacted, &c.

1. *Restriction on publication of reports of judicial proceedings.*—(1) It shall not be lawful—

(*a*) to publish any particulars of any judicial proceedings to which this Act applies other than the following, that is to say:—

(i) the names of the parties;

(ii) the grounds on which the proceedings are brought;

(iii) particulars of any argument on any point of law arising in the course of the proceedings, and the decision of the court thereon;

(iv) the finding of the jury (if any) and the judgment of the court; or

(*b*) to include in any report of any such excepted particulars any indecent matter, or medical, surgical or physiological details the publication of which would be calculated to injure public morals.

(2) The judicial proceedings to which this Act applies are proceedings for dissolution of marriage, for nullity of marriage, and for judicial separation.

(3) If any person acts in contravention of the provisions of this Act he shall in respect of each offence be liable either—

(*a*) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine; or

(*b*) on conviction on indictment, to imprisonment for a term not exceeding one year, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

(4) Nothing in this section shall apply to the publishing of any notice or report in pursuance of the directions of the court; or to the publishing of any matter in any separate volume or part of any bonâ fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character bonâ fide intended for circulation among members of the legal or medical professions.

2. *Short title and extent.*—(1) This Act may be cited as the Matrimonial Causes (Regulation of Reports) Act, 1923.

(2) This Act does not extent to Northern Ireland.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 3%. Next London Stock Exchange Settlement, Thursday, 31st May.

	Middle Price. 23rd May.	Interest Yield. £ s. d.
English Government Securities.		
Consols 2½%	58	4 6 0
War Loan 5% 1929-47	101	4 19 0
War Loan 4½% 1925-45	98½	4 11 0
War Loan 4% (Tax free) 1929-42 ..	100½	3 19 0
War Loan 3½% 1st March 1928	95½	3 14 0
Funding 4% Loan 1960-90	92½	4 6 6
Victory 4% Bonds (available at par for Estate Duty)	93⅝	4 6 0
Conversion 3½% Loan 1961 or after ..	80	4 7 6
Local Loans 3% 1912 or after	68⅝	4 7 6
India 5½% 15th January 1932	103¼	5 6 6
India 4½% 1950-55	90	5 0 0
India 3½%	70⅞	4 19 0
India 3%	60¼	4 19 0
Colonial Securities.		
British E. Africa 6% 1946-56	113¾	5 5 6
Jamaica 4½% 1941-71	100	4 10 0
New South Wales 5% 1932-42	102½	4 18 0
New South Wales 4½% 1935-45	97	4 13 0
Queensland 4½% 1920-25	98	4 12 0
S. Australia 3½% 1926-36	87	4 0 6
Victoria 5% 1932-42	101½	4 18 6
New Zealand 4% 1929	95	4 4 0
Canada 3% 1938	81½	3 14 0
Cape of Good Hope 3½% 1929-49	82½	4 5 0
Corporation Stocks.		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	56½	4 8 6
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	68	4 8 0
Birmingham 3% on or after 1947 at option of Corpn.	68½	4 8 0
Bristol 3½% 1925-65	78	4 10 0
Cardiff 3½% 1935	89½	3 17 6
Glasgow 2½% 1925-40	73½	3 8 0
Liverpool 3% on or after 1942 at option of Corpn.	79½	4 8 0
Manchester 3% on or after 1941	68	4 8 0
Newcastle 3½% irredeemable	76½	4 11 6
Nottingham 3% irredeemable	68	4 8 0
Plymouth 3% 1920-60	69	4 7 0
Middlesex C.C. 3½% 1927-47	78½	4 9 0
English Railway Prior Charges.		
Gt. Western Rly. 4% Debenture	89	4 10 0
Gt. Western Rly. 5% Rent Charge ..	110	4 11 6
Gt. Western Rly. 5% Preference	106½	4 14 0
L. North Eastern Rly. 4% Debenture ..	89	4 10 0
L. North Eastern Rly. 4% Guaranteed ..	88	4 11 0
L. North Eastern Rly. 4% 1st Preference	85	4 14 0
L. Mid. & Scot. Rly. 4% Debenture ..	89½	4 10 0
L. Mid. & Scot. Rly. 4% Guaranteed ..	87½	4 11 6
L. Mid. & Scot. Rly. 4% Preference ..	85¼	4 14 0
Southern Railway 4% Debenture ..	89	4 10 0
Southern Railway 5% Guaranteed ..	108	4 12 0
Southern Railway 5% Preference ..	105½	4 15 0

Etiquette of the Bar.

Accountants instructing Barristers, without the Intervention of Solicitors.

The Law Society's *Gazette* for May contains the following:—

In the leading article which appeared in the issue of *The Accountant* of the 10th June, 1922, it was stated as clear that in non-contentious business, before the stage of litigation has been reached, counsel may take a case for opinion from an accountant, on behalf of a lay client, without invoking the assistance of a solicitor.

This statement not unnaturally attracted attention, as well in the accountants' as in the legal profession. The Council of The Law Society, immediately their attention was directed to it, expressed the opinion that it was contrary to what they had always understood to be the etiquette of the Bar. A communication on the subject was addressed to the General Council of the Bar, who have given the matter their consideration.

The Council of The Law Society are glad now to have their own opinion confirmed as indicated by the letter on the subject from the General Council of the Bar, of which the following is a copy:—

General Council of the Bar,
5 Stone Buildings,
Lincoln's Inn, W.C.2,
24th April, 1923.

Dear Sir,

With reference to our correspondence relating to the article in *The Accountant* under the heading "Counsel's Opinion," I have to inform you that the matter has been carefully considered by the Bar Council, and in their opinion it is contrary to the practice of the profession that Counsel should accept instructions to advise, or settle documents, from accountants, or persons in similar professions acting on behalf of their clients, without the intervention of a solicitor.

HAROLD HARDY,
Secretary.

E. R. Cook, Esq.,
The Secretary,
The Law Society.

Legal News.

Appointment.

The President of the Board of Trade has appointed Mr. Harold Parker to be Official Receiver in Bankruptcy for the Bankruptcy Districts of the County Courts holden at Preston and Chorley, Blackburn, Blackpool and Fleetwood and Burnley in succession to Mr. Charles Harvey Plant as from the 19th May 1923.

Dissolution.

ARTHUR WAINWRIGHT, LEOPOLD HYMAN WOOLFE and ALEXANDER BROWNE, Solicitors (Wainwright, Woolfe & Browne), Wabys-chambers Cleethorpe-road, Great Grimsby. 30th day of April, 1923. The said Arthur Wainwright and Alexander Browne will continue to practise under the firm or style of Wainwright, Woolfe & Browne.

General.

Mr. Frederick Charles Norton (72), of Cornwall-gardens, South Kensington and Stone-buildings, Lincoln's Inn (net personalty, £26,139) left estate of gross value of £27,450.

At the commemoration of Founders' Day at the University of Manchester on 16th inst., the honorary degree of LL.D. was conferred on Lord Hewart of Bury, Lord Chief Justice.

Mr. Edward Bell (63), of Humbledon View, Sunderland, senior partner in W. Bell and Sons, solicitors, Durham (net personalty, £15,593) left estate of gross value of £20,691.

Mr. Michael Harman Harrison, Indian Civil Service, has been appointed a Puisne Judge of the Lahore High Court in succession to Sir William Chevis, who is retiring from the Bench.

At the University of London on 16th inst., the degree of LL.D. was conferred on Mr. David Harrison, an external student, for a thesis entitled "Conspiracy as a Tort and Crime in English Law."

Mr. William Morgan (76), of Mount View, Shipley, Yorks, solicitor, senior partner in Morgan, Wright, Horner and Co., Bank-street, Bradford (net personalty, £25,957) left estate of gross value of £27,944.

The Times, in its extracts from its issue of 20th May, 1823, gives the following: We understand that on Saturday last a husband conveyed his wife into the market place, at Halifax, for sale; and though the sum of 5s. has hitherto been the average price of a wife thus exposed, yet so highly did the husband recommend his rib to the multitude, that she was ultimately disposed of for a sovereign. What the constables and magistrates of that place were about, whilst this sale was going forward, we know not.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday May 28	Mr. Hicks Beach	Mr. Ritchie	Mr. Bloxam	Mr. Hicks Beach
Tuesday 29	Bloxam	Synge	Hicks Beach	Bloxam
Wednesday .. 30	More	Hicks Beach	Bloxam	Hicks Beach
Thursday 31	Jolly	Bloxam	Hicks Beach	Bloxam
Friday June 1	Ritchie	More	Bloxam	Hicks Beach
Saturday 2	Synge	Jolly	Hicks Beach	Bloxam

Date.	Mr. Justice Sargant.	Mr. Justice Russell.	Mr. Justice Astbury.	Mr. Justice P. O. Lawrence.
Monday May 28	Mr. More	Mr. Jolly	Mr. Ritchie	Mr. Synge
Tuesday 29	Jolly	More	Synge	Ritchie
Wednesday .. 30	More	Jolly	Ritchie	Synge
Thursday 31	Jolly	More	Synge	Ritchie
Friday June 1	More	Jolly	Ritchie	Synge
Saturday ... 2	Jolly	More	Synge	Ritchie

Summer Assizes.

Crown Office,
17th May, 1923.

Days and places fixed for holding the Summer Assizes, 1923 :—

NORTH WALES AND CHESTER CIRCUIT.

Mr. Justice Bailhache.
Mr. Justice Sankey.
Friday, 25th May, at Newtown.
Wednesday, 30th May, at Dolgelly.
Saturday, 2nd June, at Carnarvon.
Thursday, 7th June, at Beaumaris.
Monday, 11th June, at Ruthin.
Thursday, 14th June, at Mold.
Saturday, 7th July, at Chester.

NORTH-EASTERN CIRCUIT.

The Lord Chief Justice of England.
Mr. Justice Greer.
Tuesday, 26th June, at York.
Saturday, 30th June, at Durham.
Saturday, 7th July, at Newcastle.
Saturday, 14th July, at Leeds.

MIDLAND CIRCUIT.
(Second List.)

Mr. Justice Roche.
Mr. Justice McCardie.
Thursday, 5th July, at Warwick.
Tuesday, 10th July, at Birmingham.

The London correspondent of *The Sheffield Daily Telegraph* writes: A famous firm of City solicitors has just been paid £2,000 by the father of a seventeen-year-old boy in order that he may serve under articles with them. This is in spite of the fact that the premium system is dying out, and many solicitors are even paying articled clerks a small salary. The secret of the big fee lies in the fact that the famous City firms of solicitors are almost a close corporation. Only a man articled in the office can hope to be offered a post when he is qualified, and it has been said that three years' experience in one of the few really first-class offices ought to be worth £3,000 a year to any smart young solicitor. I know a young solicitor who has just refused a post at £400 a year because he hopes to "assist" a famous commercial solicitor at no salary at all.

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—FRIDAY, May 18.

ROE UPTON & CO. LTD. June 30. Cecil H. Mears, 104, Great Russell-st., W.C.1.

E. H. HARVEY LTD. June 18. John B. Butterworth, 36, Corn-st., Bristol.

BASIL S. FOSTER LTD. June 2. Harold Tansley Witt, 5, Chancery-la., W.C.2.

R. HEAD & CO. LTD. June 28. Robert M. Coutts, 3, St. James's-sq., Manchester.

THE MAXIMUM SHOE CO. LTD June 4. H. Hodge, Market-st.-chmbs., Kettering.

W. H. PICKERING & CO. LTD. June 30. James Moore, 25, Union-st., Bury.

ROBERT CARLYLE & CO. LTD. June 20. Robert M. Coutts, 5, St. James's-sq., Manchester.

KENNEY LIMB CO. LTD. June 27. Keith W. G. Boddy, 36, Camomile-st., E.C.3.

AMIS & CO. LTD. May 31. Henry C. Best, 29, Mincing-la., E.C.3.

VESTAL HOSIERY CO. LTD. June 4. Clement R. Miles, 20, Friar-la., Leicester.

COMRADES OF THE GREAT WAR (COBRIDGE) CLUB LTD. June 8. Joseph C. Bladen, 17, Albion-st., Hanley.

Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, May 18.

Goldwater & Phillips Ltd.
Atherstone Corn Exchange Co.
Cheapside Stores Ltd.
A. Grochoiski & Co. Ltd.
Sheet Metal & Galvanising Co. Ltd.
C. Cameron & Co. (Paper) Ltd.
The Reliance Investment Co. Ltd.
Carl Rosa Opera Co. Ltd.
George Abbott (Kettering) Ltd.
Robert Carlyle & Co. Ltd.
Jefferies & Rich Ltd.
K. Head & Co. Ltd.
Gothorpes Ltd.
Edward Nelson & Co. Ltd.
Colloid Dust Treatment Co. Ltd.
Durrington Brick Co. Ltd.
Amis & Co. Ltd.
Thomas Fox & Co. Ltd.
Wm. J. Ferguson (Redditch) Ltd.
Stevenage Unionist Club Ltd.
James Francis Works Ltd.
Walter & Frank Brown Ltd.
Nunn & Co. Ltd.
Walter Armstrong Ltd.
The Avino Mines Ltd.
The British American Ribbon and Carbon Co. Ltd.
The Birmingham Excelsior Permanent Money Society.
Joseph Ward & Sons (Keighley) Ltd.
The Ashburton Building Co. Ltd.
St. Stephen's Manufacturing Co. Ltd.
Streatham Hall Building Estate Co. Ltd.
The Picturedrome (Mansfield) Ltd.
"Kenney" Limb Co. Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, May 18.

ALLEN, NATHANIEL A., Macclesfield-st., W.C. High Court. Pet. March 16. Ord. May 14.

ANDERSON, WILLIAM C., Kingston, Surrey, Fishing Tackle Dealer. Kingston. Pet. May 15. Ord. May 15.

ASCOUGH, FRANK, J., Ealing, Motor Body Builder. Brentford. Pet. May 15. Ord. May 15.

ASCOUGH, ROBERT E., Cotherstone, Yorks, Railway Clerk. Stockton-on-Tees. Pet. May 14. Ord. May 14.

BARNETT, H. HENRY, West Hartlepool. Sunderland. Pet. May 4. Ord. May 16.

BARTLETT, GEORGE H. U., Swansea, Engine Driver. Swansea. Pet. May 14. Ord. May 14.

BEECHAM, ALBERT E., Scarborough. High Court. Pet. April 13. Ord. May 15.

BEECROFT, TOM, Keighley, Grocer. Bradford. Pet. May 15. Ord. May 15.

BERENBAUM, ELI, Brighton, Fine Art Dealer. Brighton. Pet. April 23. Ord. May 15.

BESWARICK, JOHN C., Hove, Builder and Contractor. Brighton. Pet. May 15. Ord. May 15.

BILLUPS, CYRIL J., West Croydon. Croydon. Pet. Sept. 1. Ord. May 15.

BOSWORTH, ADA, Leicester, Confectioner. Leicester. Pet. May 16. Ord. May 16.

BRANSON, EDWARD C., Kilburn, Tobacconist. High Court. Pet. April 27. Ord. May 15.

BREARS, TOM, Caistor, Coal Merchant. Lincoln. Pet. May 14. Ord. May 14.

BROWN, TOM, Dewsbury, Auctioneer. Dewsbury. Pet. May 3. Ord. May 16.

CHINTILLIER, BARBARA, North Shields, Ship Chandler. Newcastle-upon-Tyne. Pet. May 15. Ord. May 15.

COHEN, SOLOMON, Canonbury. High Court. Pet. April 19. Ord. May 15.

CROWE, WILLIAM G., CROWE, CATHERINE and DAVIES, MARY, Barrow-in-Furness, Fruit and Fancy Dealers. Barrow-in-Furness. Pet. May 12. Ord. May 12.

DANIELS, HERBERT, Llanegwrd, Farmer. Carmarthen. Pet. May 15. Ord. May 15.

DUFFIN, ALBERT H. and KERSHAW, GEORGE, Colwyn Bay, Electrical Engineers. Bangor. Pet. May 12. Ord. May 12.

EGLASH, MYER, Whitechapel. High Court. Pet. May 12. Ord. May 16.

EMMITT, WALTER, Cleethorpes, Skipper. Great Grimsby. Pet. May 15. Ord. May 15.

EVANS, THOMAS, Walton-by-Kirricole, Leicester, Carrier. Leicester. Pet. May 16. Ord. May 16.

FREEDMAN, MOSES, Willesden Green. High Court. Pet. April 19. Ord. May 14.

GIFFORD, ROWLAND, Great Grimsby, General Hardware Merchant. Great Grimsby. Pet. May 14. Ord. May 14.

GOLDSTEIN, ISAAC, Bishopsgate, Turf Commission Agent. High Court. Pet. April 30. Ord. May 12.

GRASSBY, GEORGE, South Shields, Fruiterer. Newcastle-upon-Tyne. Pet. May 15. Ord. May 15.

GRATTAN, HERBERT C., Parkstone, Dorset, Accountant. Poole. Pet. April 26. Ord. May 15.

GREEDY, THOMAS S., Caerphilly, Glam, China Merchant. Pontypridd. Pet. May 14. Ord. May 14.

HANNIBAL, SYDNEY, Stoke-upon-Trent, Commercial Traveller. Hanley. Pet. May 12. Ord. May 12.

HARROW, JOHN A., Coventry, Turner. Coventry. Pet. May 14. Ord. May 14.

HERRICK, JOSEPH, Retford, Grocer. Lincoln. Pet. May 11. Ord. May 11.

HILL, THOMAS E., Birkenhead. Birkenhead. Pet. May 3. Ord. May 15.

HINDS, ALICE M., Tipton, Grocer. Dudley. Pet. May 15. Ord. May 15.

HINGLEY, ERNEST, and HORNE, WILLIAM J., Netherton, Dudley, Grocers. Dudley. Pet. May 5. Ord. May 15.

HIPWELL, GERTRUDE, Bedford. Bedford. Pet. May 15. Ord. May 15.

HOULTON, WALTER, Otley, Hairdresser. Leeds. Pet. May 14. Ord. May 14.

JENKINS, HILDA M., Treorchy, Glam, Butcher. Pontypridd. Pet. May 14. Ord. May 14.

KITCHEN, WILLIAM, Westwoodside, Lincs., Farmer. Lincoln. Pet. May 14. Ord. May 14.

LILWALL, LEONARD, Blackburn, Chair Maker. Blackburn. Pet. May 15. Ord. May 15.

LOOSEMORE, WILLIAM T., Swansea, Coal Merchant. Swansea. Pet. May 14. Ord. May 14.

LOWE, SIDNEY, Merthyr Tydfil, Licensed Victualler. Merthyr Tydfil. Pet. May 1. Ord. May 14.

LUFT, FANNIE, Salford, Cap Maker. Salford. Pet. May 14. Ord. May 14.

LUSTGARTEN, JACQUES B., Rhyl, Photograph Enlarger. Bangor. Pet. May 14. Ord. May 14.

MAJOR, WILLIAM and CROWSON, PARKER, Lincoln, Builders. Lincoln. Pet. May 16. Ord. May 16.

MAYES, ARTHUR W., Great Yarmouth, Fishing Tackle Dealer. Great Yarmouth. Pet. May 15. Ord. May 15.

MORAN, ISABEL, Stockton-on-Tees, Provision Dealer, Stockton-on-Tees. Pet. May 14. Ord. May 14.

MORRIS, JOHN E., Pontypridd, Steward. Pontypridd. Pet. May 14. Ord. May 14.

OGDEN, T. S., Dearnley, near Rochdale, Licensed Victualler. Rochdale Pet. May 2. Ord. May 15.

PARSONS, THOMAS H., Bradford, Dentist. Bradford. Pet. March 19. Ord. May 10.

POLIAKOFF, ISADORE, Ludgate-hill, Merchant. High Court. Pet. March 12. Ord. May 3.

READ, EDGAR W., Brighton, Taxi Cab Driver. Brighton. Pet. May 14. Ord. May 14.

REID, JOHN B., Prestwich, Engineer. Salford. Pet. May 14. Ord. May 14.

RITCHIE, HECTOR B., Ealing. Brentford. Pet. March 31. Ord. May 15.

RUDD, RICHMOND, Long Ashton, Somerset, Electrical Engineer. Bristol. Pet. May 15. Ord. May 15.

SANDERSON, WALTER I., Wood Green, Confectioner. High Court. Pet. May 15. Ord. May 15.

SMITH, HARRY, Bath. Bath. Pet. April 24. Ord. May 15.

SNADDON, WALTER H., Manchester, Draper. Manchester. Pet. May 3. Ord. May 14.

STOCKILL, WILLIAM, South Bank, Yorks, Coal Dealer. Middlesbrough. Pet. May 14. Ord. May 14.

THOMAS, G. & CO., Pendleton, Salford, Merchants. Salford. Pet. April 25. Ord. May 15.

THOMAS, JOHN, Vronscawen Mydrim, Farmer. Carmarthen. Pet. April 30. Ord. May 15.

THOMPSON, S., Liverpool. Liverpool. Pet. April 30. Ord. May 14.

VINE, ALFRED J., Seaford, Grocer. Brighton. Pet. May 16. Ord. May 16.

WEST, HARRY B., Canterbury, Electrician. Canterbury. Pet. May 16. Ord. May 16.

WHITTAKER, EDITH, Middlesbrough, Fancy Draper. Middlesbrough. Pet. May 15. Ord. May 15.

WILLIAMS, HARRIET, Conway, Fruiterer. Bangor. Pet. May 15. Ord. May 15.

WILLIAMS, S. BRANTON, Cardiff, Commission Agent. Cardiff. Pet. April 26. Ord. May 11.

WILLSON, ERNEST, Jewry-st., Merchant. High Court. Pet. May 2. Ord. May 14.

WINDLE, HERBERT, Burnley, Smallware Dealer. Burnley. Pet. May 14. Ord. May 14.

WOOD, CHARLES F. B., Bradford, Haulage Contractor. Bradford. Pet. May 14. Ord. May 14.
Amended Notice substituted for that published in the *London Gazette* of May 11, 1923 :—

BOWES, ELIZABETH, Durham, General Dealer. Durham. Pet. May 7. Ord. May 7